presstime

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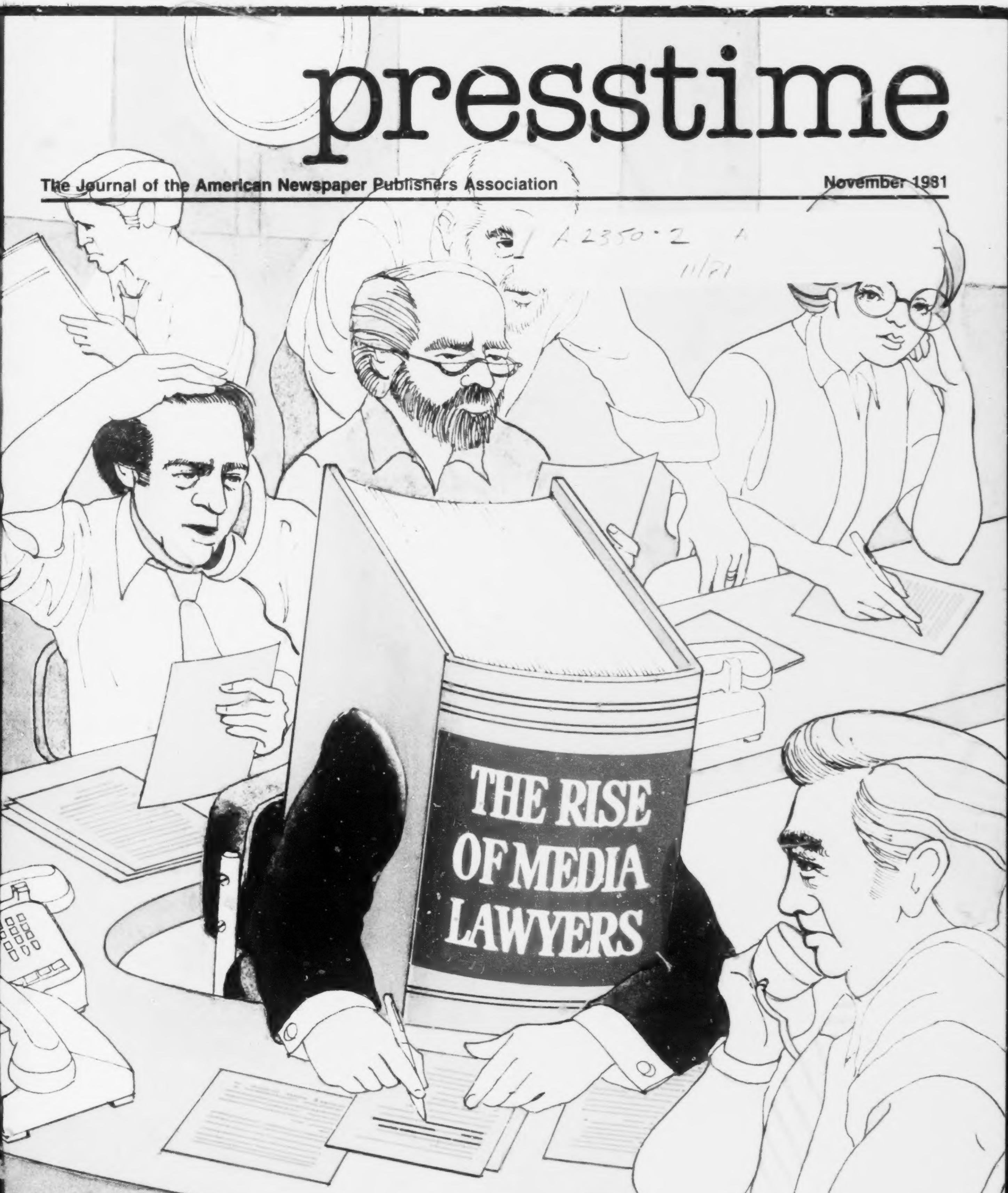
THE RISE OF MEDIA LAWYERS

chairman's corner

FTC should dismiss complaint over volume discounts for ads

The information explosion taking place in our society is certain to intensify the competition for readers and advertisers as we move through the 1980s. Newspapers will be able to remain a vigorous force in the media marketplace only if they have the flexibility to tailor their strategies to meet the growing variety of challenges.

Katharine Graham

That is why for the past four years ANPA has watched with such concern the Federal Trade Commission's unprecedented effort to impose restrictions on the ability of a newspaper to compete with broadcast and other media.

The FTC, in a complaint initiated in 1977 against The Times Mirror Co., alleged that volume discounts offered advertisers in the Los Angeles Times violated antitrust laws. While The Times Mirror Co. denied the charges, it finally agreed—out of concern over the uncertainties of litigation—to a settlement that would require the Times to use a fixed index of rates for calculating discounts. The Times' competitors in other media, meanwhile, would remain free to offer advertisers whatever rates they choose. Times Mirror currently is urging dismissal of the original FTC complaint, contending that significant changes have taken place in the regulatory and competitive marketplace.

Publication of the details of the tentative decree on Sept. 25, however, had the important effect of taking what had been a private legal struggle between Times Mirror and the FTC and exposing the issues for the first time to public scrutiny. The FTC has invited public comment before Nov. 30 on such questions as:

- What effect will this order have on the ability of newspapers to compete in the sale of advertising?
- What should be the commission's enforcement policies in the future with respect to the principles expressed in this order, and what competitive effects—including effects on the Times—may flow from these policies?

As these questions suggest, if this decree is made final, the implications for newspapers are enormous. The ANPA Executive Committee, after reviewing the issues thoroughly, has decided to urge the FTC to dismiss the original complaint. At a time when the information marketplace is entering a period of unparalleled growth, diversity and opportunity, piecemeal governmental efforts to restrict one element of the media will only work to the detriment of society.

We would suggest, moreover, that all ANPA members consider carefully whether they want to share thoughts of their own with the FTC on the appropriateness of this kind of regulation and on the potential impact of this kind of policy on newspapers.

Kay Graham

Katharine Graham
Chairman and President

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Litigious age gives rise to media law

By C. David Rambo
presstime staff writer

A multitude of challenges to press rights coupled with government's pervasive presence in most aspects of American business have touched off an increasing need among newspapers for legal assistance.

From this has evolved the field of media law, whose practitioners are part of a new elite called on to help apply and preserve the First Amendment.

"I've been in the business 25 years," says Kuyk Logan, managing editor of The Houston Post, "and I'm spending more time with attorneys than I ever have."

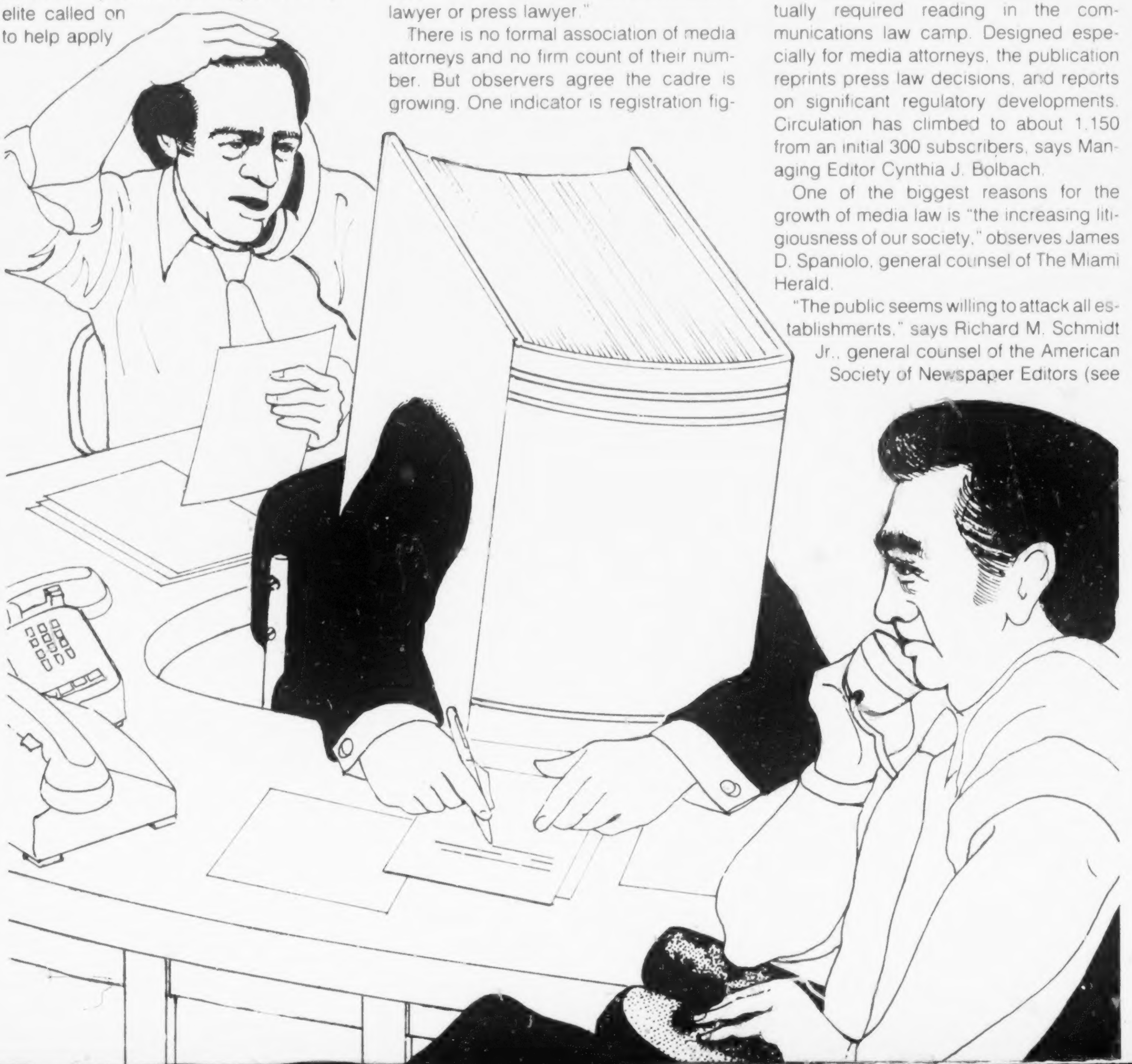
"Fifteen years ago there really wasn't any concentrated expertise in the field," says noted media lawyer James C. Goodale, former general counsel of The New York Times. "Since that time, there has developed a so-called mass communications lawyer or press lawyer."

There is no formal association of media attorneys and no firm count of their number. But observers agree the cadre is growing. One indicator is registration figures of the annual media law seminar in New York City sponsored by Practising Law Institute. Goodale, program chairman, says the event drew an average 75 participants in its first and second years. The ninth annual seminar scheduled Nov. 19-20 is expected to attract 250-300 communications lawyers.

Another indicator is the 1977 founding of Media Law Reporter, published by the Bureau of National Affairs Inc. and now virtually required reading in the communications law camp. Designed especially for media attorneys, the publication reprints press law decisions, and reports on significant regulatory developments. Circulation has climbed to about 1,150 from an initial 300 subscribers, says Managing Editor Cynthia J. Bolbach.

One of the biggest reasons for the growth of media law is "the increasing litigiousness of our society," observes James D. Spaniolo, general counsel of The Miami Herald.

"The public seems willing to attack all establishments," says Richard M. Schmidt Jr., general counsel of the American Society of Newspaper Editors (see



profile, p. 28). "Years back, when someone went to the hospital and died after an illness, it was considered to be the will of God, and that was it. But now the first thing they seem to do is say, 'Can we sue?'"

In addition to libel and privacy matters, media lawyers are dealing with a sharp rise in questions about reporter privilege, gag orders, courtroom closures, subpoenas of journalists, access to public records and meetings, newsroom searches and other First Amendment issues. Many are "creatures of the last 10 years," notes Bruce W. Sanford, an attorney whose clients include the Society of Professional Journalists, Sigma Delta Chi.

Many lawyers are spending much time just keeping their press clients informed of the latest legal developments. "There's a lot of activity popping all over the place," says Robert C. Lobdell, vice president and general counsel of the Los Angeles Times. "A lawyer simply has to keep his publishers and editors, and the business staff for that matter, aware and up to date on what the law is."

Much of the heightened activity stems from the courts. And while most media lawyers agree there has been an increase in the number of cases and troublesome outcomes (see list, page 8), they don't always agree on the reasons.

Court opinions adverse to the press are a byproduct of "a long-term institutional conflict going on between the judicial system and the press," says lawyer-journalist Jack C. Landau, director of The Reporters Committee for Freedom of the Press.

ANPA General Counsel Arthur B. Hanson strongly disagrees. He says that "courts"—meaning judges in general and the U.S. Supreme Court under Chief Justice Warren E. Burger in particular—are not "anti-press."

"Some of the greatest affirmations of press freedoms in the 20th century" have come from the Burger court, agrees Sanford.

Hanson contends that the cause of the increased court activity involving the press—especially libel cases—is attributable in large part to careless reporters and editors.

Schmidt says he would agree there was a "post-Watergate syndrome" characterized by a crop of investigative reporters "who were willing to rush to print with anything." But he says "the pendulum has swung back, and I think we're going into more careful reporting and more careful editing."

Business issues. The rise in media law also stems from increasing demands on newspapers' business side. Many media lawyers, such as P. Cameron DeVore, who represents The Seattle Times, serve both the editorial and the business sides of newspaper operations.

"Fifteen years ago there really wasn't any concentrated expertise in the field. . . . Since that time, there has developed a so-called mass communications lawyer or press lawyer."

James C. Goodale
Media lawyer

Antitrust issues, advertising issues, estate planning, tax law, labor negotiations, financing negotiations and a host of worker-safety and other regulations all have called for the hand of skilled counsel. Interest is such that the American Bar Association has scheduled a first-ever Media Labor Law Forum in Arlington, Va., Feb. 4-5.

And newspapers with ties to broadcasting properties know all too well the demands for legal assistance imposed by regulation of the Federal Communications Commission. It is too early to say how much, if at all, the government will regulate emerging new information services such as videotex and teletext. But those services and their related technologies in any case will require increased legal attention.

Also, Goodale and Lobdell note, public ownership of newspapers involves voluminous legal work, with public companies subject to reporting under securities laws, stock exchange rules and others.

The new interest in media law logically has been reflected at law schools. "A very substantial number" of law schools added media law courses to their curricula in the last 10 years, says Dean Jerome A. Barron of George Washington University's National Law Center in Washington, D.C. "There is a tremendous interest in the media."

Catholic University's Columbus School of Law, also in Washington, recently announced formation of what it calls the first "integrated" curriculum in media law.

Out-of-house, in-house. Whether newly minted or established, the lawyer interested in a media practice essentially has two choices: join the newspaper or other media company itself as an in-house attorney, or join a private firm that represents a media company, usually on a retainer basis.

Typical of a newspaper using the private firm or out-of-house counsel approach is the Albuquerque (N.M.) Journal. If Editor Gerald J. Crawford has a legal question about a story, he simply calls the paper's firm located several miles away. He and the lawyer may discuss the issue immediately over the phone or arrange a meeting.

Although there is no firm policy, Crawford adds that he usually first consults with his publisher about whether to contact the attorneys because "he's the one who pays the legal bills."

While many newspapers have such arrangements with private firms, the trend is toward in-house legal help, particularly at big newspapers.

Catherine Henn, corporation counsel of Affiliated Publications Inc., parent firm of The Boston Globe, says newspapers are part of a trend in American industry to take on more in-house counsel. In fact, a recent report showed that corporate in-house lawyers make up the fastest-growing sector of the legal profession. An inside staff can do legal chores "more cheaply and, one would hope, more effectively" than outside counsel, Henn adds.

Lobdell says in-house newspaper attorneys also may serve as litigation managers, overseeing out-of-house lawyers serving on the front lines of a particular legal battle.

Although newspapers with out-of-house counsel report no problems in getting help when needed on deadline, proximity alone may give in-house counsel a leg up on this score. For example, if Logan of The Houston Post has concerns about a story, "I just trot up to the third floor" and let Executive Vice President and General Counsel James E. Crowther take a look at it.

If Crowther is not in, he is still available "either by telephone or by beeper," Logan explains. "It's an ideal relationship."

Senior-level editors normally are the ones to make contact with a newspaper's lawyers. But at some newspapers, like the Chicago Sun-Times, reporters may call the lawyer informally. Executive Vice President and Editor James F. Hoge says his staff has developed a good relationship with the paper's longtime out-of-house attorney, A. Daniel Feldman. "There can be lots of interaction," he says. But the calls are not frivolous, and top editors always are involved in inquiries involving major stories.

About a dozen large newspaper groups have corporate legal staffs that function as sort of long-distance, in-house lawyers for the group's individual newspapers.

Gannett Co. Inc., for example, has a staff of six attorneys at its Rochester, N.Y., headquarters. Two of them are labor specialists. All are available for consultation with member newspapers "wherever and whenever" they're needed, says Gannett Senior Vice President Douglas H. McCorkindale.

The Times Mirror Co. has 16 attorneys in its legal department.

The Des Moines (Iowa) Register & Tribune Co.'s legal staff of three full-time lawyers and a part-time law clerk has a system known as "CLOD" (chief lawyer on duty) in which one of the staff lawyers will be on call to the news staffs at all times.

On a Sunday at 7 a.m., a reporter who was going to meet with an escaped convict needed to know how to avoid any legal entanglements in the episode.

Paul E. Kritzer
Waukesha (Wis.) Freeman

Paul E. Kritzer, editor and publisher of the Register & Tribune-owned Waukesha (Wis.) Freeman, helped develop the system when he was the company's associate general counsel. As an illustration of how CLOD works, Kritzer says he once was called on a Sunday at 7 a.m. by a reporter who was going to meet with an escaped convict and needed to know how to avoid any legal entanglements.

Despite the move by these and other groups toward corporate staffs, most newspaper groups still rely on out-of-house firms for corporate-level and local representation.

Attorney in the newsroom. Concern over legal issues has inspired the Kansas City Times and Kansas City Star to go one step further than other newspapers and place an attorney in the newsroom itself.

R. Scott Whiteside, general counsel and executive assistant to the editor, assumes a lot of administrative duties but functions as a lawyer. "Usually I don't get involved until they (reporters and editors) hit roadblocks," Whiteside says.

Times Managing Editor Chris Waddle says Whiteside is used "offensively" rather than just "defensively." "I think that's what sets us apart from the rest of society" in terms of using an attorney, Waddle explains.

As an example, Whiteside cites his successful negotiations with public officials and their attorneys "for access to documents and records that reporters wouldn't have gotten otherwise" in connection with the Hyatt Regency hotel disaster in Kansas City.

He usually is asked for help by high-level editors on both papers. For the Star, contact usually is through the managing editor. For the Times, contact sometimes is made by staffers as far down the echelon as assistant city editor.

Firm policies important. Regardless of where the lawyers keep offices, editors and attorneys alike say successful

Kansas City Star and Times' attorney-in-the-newsroom Whiteside (center) confers with staff.

relationships depend on firm ground rules. Each side must know the other's responsibilities to avoid "a big philosophical pretzel twist," Lobdell observes.

Most important, many editors and lawyers agree, is that editors and publishers—not the lawyers—make editorial decisions. "I want them to let me know where I stand and how much risk is involved in running this story," explains James P. Gannon, executive editor of the Des Moines Register and Tribune. "They'll say, 'Here's the law, here's the situation, here's what's happened in other cases.'" Then Gannon will decide what to do.

"It's a very sophisticated relationship," observes Goodale. The job of the media attorney, he says, should be "to figure out how to get the story published," not quashed. "Some lawyers are good at it, and some lawyers are terrible at it." Probably the worst are "straight-line, corporate lawyers who don't know how to deal with publications," he says.

Ken Paulson, assistant managing editor of The Courier-News in Bridgewater, N.J., and the holder of a law degree, adds that some lawyers unfamiliar with the mission of the newsroom could take the attitude, "'Look, this story's going to cause a lot of trouble if you publish. On the other hand, if you don't publish, all you lose is eight inches of copy.' . . . Well, it's a lot more than eight inches of copy to a newspaper editor."

Those sentiments are echoed by Mike Kautsch, a lawyer and former investigative reporter at The Atlanta Journal and now assistant professor of journalism at the University of Kansas. He says he knows of instances in which stories have been "modified and even gutted" by the handiwork of lawyers insensitive to the editorial process.

He even fears that lawyers could "usurp the editorial role and become the final arbiter."

To that fear Whiteside of the Kansas City Star and Times adds the danger that editors might, over time, allow them to do just that. If attorneys are readily available, editors may start to abdicate their responsibilities by saying, "'The lawyer approved it, and it's OK to run it.'"

Another strain on the newspaper-attorney relationship can occur when the lawyer is a prominent one and the subject of highly publicized news stories.

A recent example involves Chicago libel expert Don H. Reuben, who counts among his clients the Chicago Tribune and John Cardinal Cody, the Roman Catholic prelate whom the rival Sun-Times reported is under investigation for allegedly diverting church funds to a longtime friend.

Tribune Editor and Executive Vice President James D. Squires says Reuben's involvement makes no difference in the Tribune's coverage of the volatile affair. However, he concedes that "anytime the newspaper lawyer is a prominent one who represents people who are in the news . . . there is always the problem of the *appearance* of a problem."

For his part, Reuben says he has "been in this situation 100 times," and the "real way to keep it pure is for (a newspaper's counsel) to be a Trappist monk."

Some lawyers could say, "'. . . if you don't publish, all you lose is eight inches of copy.' . . . Well, it's a lot more than eight inches of copy to a newspaper editor."

Ken Paulson
The Courier-News, Bridgewater, N.J.

Association work. One barometer for measuring the increased role of lawyers in the media is the stepped-up legal activity of the various associations and societies which represent the press.

ANPA in the past five to seven years has "doubled the time, attention and resources that we devote to the area of government and legal affairs," says Executive Vice President and General Manager Jerry W. Friedheim.

Reflecting the increased demand, the Association in 1976 created its Government Affairs Department and in 1978 established its in-house Legal Department. W. Terry Maguire, who will become general counsel Jan. 1, succeeding Hanson, who will become counsel emeritus, oversees a staff of three other lawyers as well as two professional government affairs staffers.

The Association cannot dispense legal opinions to individual newspapers, but it can help newspaper executives as they work with their local lawyers.

These new departments also are kept busy providing information on legal and government issues affecting the press, lobbying in Congress and the Executive Branch agencies and defending the press and First Amendment principles in the courts by filing friend-of-the-court briefs.

To fulfill these obligations, Friedheim points out, the Association has maintained and in some cases expanded use of outside counsel for cases in First Amendment areas, communications, postal affairs, patent law for ANPA Research Institute inventions, and others.

As legal issues, particularly free press/fair trial issues, multiplied in the '70s, ANPA formed a Press-Bar Relations Committee and a joint ANPA/ABA Task Force to promote understanding between the media and the bar.

Among other groups beefing up their legal work:

- SPJ,SDX in 1978 was spending "$1,000 of our budget money on legal, and now we're spending pretty close to $80,000 (per year)," says President Howard Graves. It has stepped up efforts on Capitol Hill and in filing friend-of-the-court briefs, and this year hired Sanford as its first general counsel.
- ASNE's spending on freedom-of-information efforts "has increased at least ten-fold" since 1968 when Schmidt became general counsel, he says. The society has filed more friend-of-the-court briefs, heightened its monitoring of legislation on the federal and state levels, and has expanded its campaigns to inform editors of developments in the legal and govern-

ment arena.

- The National Newspaper Association, representing primarily small daily and weekly newspapers, historically has emphasized legal and government affairs via lobbying in Washington. New President George J. Measer wants to increase those efforts (see story, page 54).
- The Reporters Committee was started in 1970 by a handful of journalists concerned about attacks on press freedoms. Currently it has about 4,500 paying sponsors, a staff of four lawyers and nine law school interns. The committee collects information and court decisions on a broad range of legal issues, testifies before Congress and submits court briefs on behalf of the press, and publishes the bi-monthly magazine News Media and the Law.

Other tools of this growing trade include the 23-year-old Freedom of Information Center at the University of Missouri, which serves as a repository for information on First Amendment cases, the new Libel Defense Center which reports on developments in libel and privacy [**presstime,** Sept. 1981, p. 10] and Media Law Reporter.

Lawyer/journalists. Another byproduct of the rise in media law is the increase in the number of journalists with law degrees. "We are finding that more and more people we interview for general newspaper jobs have a law degree," says Waddle of the Kansas City Times. "We've got lawyers all over the place."

Paulson of The Courier-News says his law degree helps him be a better journalist. "There are so many parallels between the law and journalism," he explains. "It's essentially taking a great many facts and boiling them into an understandable form."

Paulson explains he always wanted to work as a newspaper journalist but a "frozen job market" prevented him from landing a job after graduating from college in 1975. He then went to law school "to get some expertise to improve my marketability." It worked.

But few law school graduates who are former reporters return to their beat, ob-

Supreme Court decisions affecting the press

The relatively recent increase in the number of media lawyers and in media law activity in general is mirrored by the recent dramatic increase in the number of major press cases decided by the U.S. Supreme Court. Following are some of the most important press-related opinions of the high court to date:

1931

- *J.M. Near v. State of Minnesota*, June 1: A Minnesota statute allowing the government to quash any "malicious, scandalous, and defamatory newspaper, magazine or other periodical" constitutes prior restraint in violation of the 14th Amendment [**presstime,** July 1981, p. 25].

1936

- *Grosjean v. American Press*, Feb. 10: A Louisiana license tax of 2 percent on gross receipts from advertisements in publications with greater than 20,000 circulation is found to violate the First and 14th Amendments.

1946

- *Pennekamp v. Florida*, June 3: A contempt citation against The Miami Herald is overturned. The citation had been issued after the Herald published editorials critical of a Florida state judge in connection with a rape trial that was pending in his court. (ANPA General Counsel Arthur B. Hanson points out, however, that the court has yet to decide whether editorial comment is privileged. It last year rejected a case raising the issue [**presstime,** Aug. 1981, p. 16].)

- *New York Times v. Sullivan*, March 9: In libel cases, a public official must show the press acted with "actual malice" to recover damages for a "defamatory falsehood relating to his official conduct" [**presstime,** Nov. 1980, p. 8].

1967

- *Butts v. Curtis Publishing Co.* and *Associated Press v. Walker*, June 12: The actual malice rule is extended to public figures.

1969

- *Citizen Publishing Co. v. U.S.*, March 10: Joint operating agreement between The Arizona Daily Star and the Tucson Citizen violates Sherman Antitrust Act. U.S. District Court order requiring re-establishment of two separate, independent competitors does not violate First Amendment. (Congress in 1970 passed the Newspaper Preservation Act, which allows limited antitrust immunity when newspapers in a joint operating agreement can show that when the agreement was made, one was in probable danger of financial failure [**presstime,** Jan. 1981, p. 14].)

1971

- *Rosenbloom v. Metromedia*, June 7: The actual malice rule is extended to private individuals involved in matters of public or general interest.
- *New York Times v. U.S.* (the "Pentagon Papers" case), June 30: An injunction against The New York Times barring publication of stories on a classified government study outlining U.S. involvement in Vietnam, "amounts to a flagrant, indefensible and continuing violation of the First Amendment."

1972

- *Branzburg v. Hayes*, June 29: A reporter of The Courier-Journal of Louisville had no First Amendment privilege to refuse to appear before a grand jury and answer relevant questions.

1973

- *Pittsburgh Press v. Pittsburgh Commission on Human Relations*, June 21: The Pittsburgh Press must stop classifying "help wanted" columns according to sex.

serves Professor Marc A. Franklin of Stanford University Law School.

Barbara M. Mack, associate general counsel of the Des Moines Register & Tribune Co. and former reporter for both of those newspapers, says she "intended to be a reporter with a law degree. . . . I had decided that if I was going to continue to cover courts and related issues, I needed some legal training."

But while she was in law school, the company's general counsel, Gary G. Gerlach, gave her the opportunity to serve as law clerk on his staff. She accepted and was intrigued by the new challenge. "I never went back" to the newsroom, Mack says.

Her reporting background, however, is a definite plus. "I think your client is inclined to trust you a little bit more up front if you know the frustration of being shut out of a board of education meeting" or of being subpoenaed, she says.

"It determines your whole mental attitude toward the work," adds the Waukesha Freeman's Kritzer.

Still, some of the most famous press lawyers have little or no newsgathering experience. An example is Floyd Abrams, who was co-counsel to The New York Times in the "Pentagon Papers" case and argued before the U.S. Supreme Court on behalf of the press in *Nebraska Press Association v. Stuart*, *Herbert v. Lando* and other major cases. Abrams says he became interested in the field while attending law school.

As in many other fields, a law degree can pave one's way to the top in the media. Gerlach, to become publisher of the Des Moines papers when the Register & Tribune Co. merges with the Minneapolis Star and Tribune Co. [**presstime**, Sept. 1981, p. 43], is the latest of many such examples.

But whether as general counsel or publisher, in-house counsel or outside retainee, superstar in front of the Supreme Court or small-town attorney fighting a local marshal's warrant, the media lawyer has carved a large niche in an increasingly complex business.

No one is predicting that role will do anything but expand. ☐

1974

- *Miami Herald v. Tornillo*, June 25: Florida's "right of reply" statute is unconstitutional. The statute had required newspapers to give to political candidates, at no charge, equal space to reply to editorials assailing their personal character.
- *Gertz v. Welch*, June 25: A noted attorney who had defended a widely publicized case is not a public figure for libel purposes.

1976

- *Firestone v. Time Inc.*, March 26: A member of a prominent family involved in a highly publicized divorce proceeding is not a public figure for libel purposes. In addition, reports of judicial proceedings are not automatically protected from liability for false and defamatory statements.
- *Nebraska Press Association v. Stuart*, June 30: Prior restraint imposed by a Nebraska trial judge on reports about a murder-trial defendant's confessions to police violates the First Amendment.

1977

- *Oklahoma Publishing Co. v. District Court*, March 7: An Oklahoma trial judge violated the First and 14th Amendments by enjoining media from publishing name of a juvenile defendant in a murder trial after the boy's identity was known publicly.

1978

- *Landmark Communications v. Virginia*, May 1: The First Amendment was violated by criminal sanctions against The Virginian-Pilot of Norfolk for publishing the name of a judge who was the subject of a state judicial review proceeding.
- *National Citizens Committee v. FCC*, May 30: The Federal Communications Commission has authority to forbid future joint ownership of newspaper/broadcast-station combinations in the same community. The FCC also may require divestiture within five years of 16 existing, "egregious" combinations involving a community's sole daily newspaper and either the sole radio or sole TV.
- *Zurcher v. Stanford Daily*, May 31: Police, armed with a search warrant, may search a newspaper office for criminal evidence believed to be on the premises. (*Zurcher* led Congress to enact the federal Privacy Protection Act of 1980, which bars surprise newsroom searches and requires police to use the subpoena process before a search warrant except in rare circumstances [**presstime**, Nov. 1980, p. 10].)
- *Houchins v. KQED*, June 26: Neither the First nor the 14th Amendments guarantees news media a right of access to government information or sources of information beyond that available to the public generally.

1979

- *Herbert v. Lando*, April 18: A public-figure libel plaintiff is permitted as part of pretrial discovery to inquire into "state of mind" of people involved in the editorial process leading to the allegedly defamatory material.
- *Wolston v. Reader's Digest*, June 26: A man who pleaded guilty to criminal contempt in a grand jury proceeding 20 years before publication of the alleged libel is not a public figure for libel purposes.
- *Hutchinson v. Proxmire*, June 26: A scientist conducting publicly funded research is not a public figure for libel purposes.
- *Smith v. Daily Mail*, June 26: A West Virginia statute violates the First Amendment by imposing criminal sanctions for publishing the name of a juvenile suspect in a murder case.
- *Gannett v. DePasquale*, July 2: The public and the press have no constitutional right to attend pretrial, criminal hearings.

1980

- *Richmond Newspapers Inc. v. Commonwealth of Virginia*, July 2: First and 14th Amendments require criminal trials to be open to the public and press unless there is an "overriding interest" for closure [**presstime**, Aug. 1980, p. 10].

1981

- *Chandler v. Florida*, Jan. 26: States may open their courtrooms to television, radio and still photography.

FOIA amendments unveiled, assailed

By Margaret Genovese
presstime staff writer

The Reagan administration Oct. 15 sent its proposed amendments to the Freedom of Information Act to Congress (see outline, facing page). The action set off an instantaneous barrage of criticism from press organizations.

Assistant Attorney General Jonathan C. Rose unveiled the proposal during a hearing before the Senate Judiciary Committee's Subcommittee on the Constitution.

Rose called the proposal—an official Justice Department section-by-section analysis of it runs to 74 pages—a "very modified and limited one" that would not affect the press' access to records.

At the same hearing, Jack C. Landau, director of The Reporters Committee for Freedom of the Press, took issue with that characterization. He called it and similar legislation introduced by Subcommittee Chairman Sen. Orrin G. Hatch (R-Utah) "a frontal assault on the act and the way it has been in effect for the past 15 years." (See essay, p. 26.)

Hatch defended his new bill, saying he made several accommodations to media representatives and others who testified at earlier hearings.

As for the administration proposal, while its scope is approximately what press organizations had been told to expect [**presstime,** Oct. 1981, p. 16], that did not mean they were any less critical when the formal unveiling came.

"The administration's proposal would seriously undermine the law," said Charles S. Rowe, chairman of the newly formed First Amendment/FOIA Group of the ANPA Government Affairs Committee. "The full Committee agreed wholeheartedly at the last meeting to unite against any full-scale assaults on FOIA. This proposal is about as full scale as possible, and we plan to fight hard against it," said Rowe, editor of The Free Lance-Star in Fredericksburg, Va.

"We have a lot of severe problems with it," said Richard M. Schmidt Jr., general counsel for the American Society of Newspaper Editors. "The time-extension element, the costing elements and other roadblocks that they have thrown in the way of efficient administration of the act are simply unacceptable."

Arthur B. Sackler, general counsel for the National Newspaper Association, also singled out the proposed response time changes for criticism. Changes in the (b)(4) exemption for trade secrets would essentially put business information out of the reach of the FOIA, he said.

Bruce W. Sanford, counsel for the Society of Professional Journalists, Sigma Delta Chi, found it "an exceedingly disappointing proposal."

The administration clearly doesn't see it that way. Under questioning by Sen. Hatch, Rose said from his review of stories written as a result of FOIA requests, he didn't think the proposal would affect the press' access to the same kind of information.

There has been "some misimpression that FOIA has been the major source of exposure of things such as Watergate or various problems with the Central Intelligence Agency or the FBI," Rose said.

"The truth of the matter is," he claimed, most of those revelations came from the government, and none of it would have been available through an FOIA request either under current law or under the administration's proposal.

The administration's proposal does not reflect the CIA's desire to be exempt from FOIA. At the hearing, Rose said the "administration has taken no position with regard to this subject." At a subsequent press conference, however, he said the administration plans to deal with the CIA in a proposed amendment to the National Security Act.

'Best version' sought. Hatch said his subcommittee will hold at least one more hearing Nov. 12 on the administration bill, S 1751, and on his bill, S 1730, and then attempt to arrive at "some sort of a best version" of the two. ANPA is expected to testify at that hearing.

In the House, Rep. Glenn English (D-Okla.), whose Government Information and Individual Rights Subcommittee held FOIA oversight hearings earlier this year [**presstime,** Aug. 1981, p. 9], has said he sees no reason to rush ahead with changes in the act. Subcommittee counsel Robert Gellman said that the panel's plans are to wait until the Senate acts on the subject before proceeding. ☐

Assistant Attorney General Rose testifies on "limited" plan.

Outline of Reagan administration's proposal

The following is an outline of the Reagan administration's proposal to amend the Freedom of Information Act. The outline is based upon the Justice Department's section-by-section analysis.

Relating to exemptions, the administration proposal would:

- Expressly protect confidential information in manuals and instructions to federal investigators, inspectors, auditors and negotiators. The administration said it was not clear currently that these materials were exempt from disclosure under exemption (b)(2) for internal personnel rules and practices of an agency.
- Revise the (b)(4) exemption for "trade secrets and commercial or financial information obtained from a person and privileged or confidential." The administration would change the definition of confidential to apply to that information whose release "may impair either the legitimate competitive, financial, or business interests of any person or the government's ability to obtain such information in the future." Currently, the confidential exemption applies to information the release of which is likely to "cause substantial harm to the competitive position of the person from whom the information was obtained."

It also would extend the protection of the exemption to nonprofit organizations and add "other commercially valuable information" to the categories of information encompassed by the exemption.

- Broaden the (b)(6) exemption which currently applies to "personnel and medical files and similar files disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The administration would have the exemption apply to all "records or information concerning individuals" disclosure of which would constitute an "unwarranted," rather than "clearly unwarranted," invasion of personal privacy.

It would also specifically exempt lists of names that could be used for commercial solicitation.

- Make a series of changes to the (b)(7) exemption for law enforcement information:

— changing the exemption for "investigatory records compiled for law enforcement purposes" to "all records or information" compiled for law enforcement purposes.

— eliminating the requirement that in order for information to be withheld disclosure must "interfere with" a pending investigation or proceeding, putting in its place a provision permitting an agency to withhold records from disclosure when it would "reveal investigatory information relating to an ongoing investigation or enforcement proceeding."

— broadening the exemption for information that "would disclose the identity of a confidential source" to information that would "tend to" disclose the identity.

— clarifying that foreign governments and state and local governments and businesses may be considered confidential sources.

— broadening the exemption for "investigative techniques and procedures" to protect "guildelines, or priorities for law enforcement investigations or prosecutions."

— authorizing withholding of information where disclosure would endanger the life or physical safety of any "natural person." Currently, information is authorized to be withheld only if it endangers law enforcement personnel.

— enabling the attorney general to exempt information relating to investigations of terrorism, organized crime or foreign counterintelligence.

- Add two new exemptions:

One would exempt records generated in connection with settlement of a legal action involving the federal government or in which the government has an interest. The administration says currently the federal government is placed at a disadvantage in these negotiations because it cannot guarantee the confidentiality of the records.

The other would exempt technical data that cannot be exported from the United States without approval, authority or license from an agency. The exemption would not apply if the requester were an exporter with the proper authorization.

Relating to definition of terms, it would:

- Redefine the word "record" to make it clear that "documents created for the personal convenience of any government employee or official" are not covered by the act. This would include "diaries, journals, telephone logs, desk calendars or personal or research notes that are not of a public character."

Relating to fees, it would:

- Permit agencies to set fees to recover all costs reasonably attributed to an FOIA request. Currently, only the direct costs of search and duplication may be charged. The administration would retain the requirement that fees be waived or reduced when a request serves the public interest, such as for the press.
- Allow agencies to establish additional fees for technological or reference information that has a commercial market value and that was generated or acquired by the government at substantial cost to the public.
- Allow courts to reverse agencies' decisions on fee waivers or reductions only when the action is "arbitrary or capricious."

Relating to the administrative rights of submitters of information, it would:

- Provide a mechanism whereby those submitting business information may object to its release under FOIA. The administration would: allow agencies to require the submitters to classify information as trade secrets, commercial, financial or other commercially valuable information (exempt under FOIA exemption (b)(4)); require agencies to notify submitters that their information is being requested under FOIA before a final decision is made whether to release it; allow submitters to object in writing to the release of the information; require agencies to notify submitters that a final decision has been made to release the information. (Under FOIA, agencies are permitted, but not required, to withhold information in exempt categories.)
- Prohibit an agency from using its discretion and releasing information exempt under the (b)(4) exemption (above) over the objections of a submitter unless "failure to disclose would injure an overriding public interest."

Relating to judicial review of agency FOIA decisions, it would:

- Require that lawsuits to compel disclosure under the act be brought within 90 days of the final denial of a request. Currently there is no time limit.
- Allow a submitter of trade secret and other exempt business information to file suit in a district court to stop the disclosure.
- Allow courts to compel disclosure of information withheld under exemption (b)(1) for national security information only if it finds the agency decision was arbitrary or capricious.
- Put the burden on the submitter of information in terms of proving that the information should not be released.
- Provide that all materials in support of an exemption, which are submitted to a court for its private review, remain under court seal.
- Require courts to delay any order to release records pending final determination of any appeal.
- Provide for assessment of attorney fees against submitters of information if a requester wins a lawsuit to compel disclosure of information. Currently, attorney fees may be assessed against the government when a requester prevails in a FOIA suit.

Relating to time limits on agency response to FOIA requests, it would:

- Apply the current time limit (10 days for the initial determination whether to release information and an additional 20 days to decide an appeal) only to those requests that can be filled within eight working hours.
- Allow agencies up to 30 working days to respond to requests that require more than eight working hours to fill. If unable to fill the request within that time, an agency would have to tell the requester how long it would take to fill the request. The same time table would apply to appeals. The final deadline could not be longer than a year to fill a request or six months to determine an appeal.
- Require agencies to establish regulations providing priorities for those who can demonstrate a compelling need for expedited treatment and whose request will primarily benefit the general public. Currently, expedited treatment may be obtained only if the requesters meet an "exceptional urgency" test.

Relating to the obligation of the government to make records available, it would:

- Relax the requirement that federal agencies index opinions and orders where they have no precedential value. The administration says this information still could be obtained under the act.
- Limit the use of FOIA to a U.S. citizen, a permanent resident alien and certain corporations or unincorporated associations. The administration says this would prevent the use of the act by foreign nationals and governments for purposes contrary to the public interest.
- Restrict the use of FOIA by a person who is a party to a judicial or administrative proceeding when the information requested relates to the subject of the proceeding. The administration said currently FOIA is used to circumvent legal rules of discovery and, where the government is a party to the proceeding, to harass and burden government agencies.
- Relieve agencies from producing material requested if it is already publicly available. The agencies would have to tell the requester of the availability of the information.
- Render FOIA inapplicable to law-enforcement informant records when a third party requests those records by citing the informant's name. The administration says this would address a "serious problem" experienced by law enforcement agencies, particularly the FBI. It said under current law, although the files may be withheld under FOIA's law-enforcement information exemption, specifying this exemption or even acknowledging the existence of the file could compromise an informant. ☐

Legislative notes

The Senate Judiciary Committee Oct. 6 voted 9-8 to include an "intent" standard in legislation that would make it a crime to **publish the names of covert U.S. agents.**

Sen. Joseph R. Biden (D-Del.) offered the amendment to S 391. Under the provision, successful prosecution would require proof that a private citizen, such as a reporter, published a foreign-intelligence agent's name with intent to impair or impede intelligence activities.

The House Sept. 23 deleted a similar intent standard from its version of the bill, HR 4 [**presstime,** Oct. 1981, p. 16].

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Congress has once again embarked on an effort to **revamp** the nation's **criminal code**.

The Senate Judiciary Committee, which held hearings on a new bill Sept. 28 and Oct. 1, may act on the measure this month. S 1630 was introduced in mid-September by Committee Chairman Strom Thurmond (R-S.C.) and is cosponsored by a bipartisan group of 10 other committee members.

ANPA Legislative Counsel Douglas R. Watts says provisions of concern to the press in the new bill are substantially similar to those in the bill approved by the Senate committee last year [**presstime**, Jan. 1981, p. 10].

In the last Congress, criminal code bills were approved by the Judiciary Committees on both sides of the Capitol, but the full House and Senate failed to act.

The House Judiciary Committee Oct. 6 set a deadline of Jan. 31 for its Criminal Justice Subcommittee to complete consideration of criminal code bill, HR 1647.

The deadline was set at the suggestion of Rep. Harold Sawyer (R-Mich.), who accused Subcommittee Chairman John Conyers (D-Mich.) of stalling on the code legislation.

The Reagan administration supports the code-revision move.

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Congress is working on legislation to extend the **Emergency Petroleum Allocation Act**, the law which enabled the Department of Energy to allocate gasoline supplies from refiners to bulk purchasers, including many newspapers [**presstime,** Feb. 1981, p. 16]. The act expired Sept. 30.

Senate consideration of S 1503 began Oct. 23.

In the House, HR 4700 is expected to be marked up by the Fossil and Synthetic Fuels Subcommittee this month.

The Reagan administration does not favor extension of the program. ☐

OSHA deputy explains plan on safety rules

The Occupational Safety and Health Administration will not set new health and safety standards unless it is satisifed that a significant risk to workers exists. And the use of video display terminals is one area in which a significant risk has not been demonstrated, Mark D. Cowan, OSHA's second-in-command, told the ANPA Labor and Personnel Relations Committee Oct. 6.

VDT regulation is "not at the top of our list," he said—not because the agency is unconcerned over allegations that the instruments pose potential health problems, but because government studies are incomplete.

"In our new regulatory process we are not going to move to regulate in areas—and this is one—until we have that information before us and it is clear there is a compelling need to regulate," said the deputy assistant secretary of labor for occupational safety and health.

Cowan outlined a new four-step OSHA standard-setting process: (1) establishing a significant risk; (2) demonstrating that OSHA can deal with the problem effectively and reduce the risk significantly; (3) determining that it is economically and technically feasible to address the problem; and (4) ascertaining the most cost-effective means of doing so.

"Unlike our most vocal critics allege, this does not mean an end to regulation," Cowan said. "What it means is the beginning of an effective, useful, common-sense approach to regulation. . . ."

Concerning compliance, he said OSHA will be more selective in its enforcement effort. A new system will be put into place to target individual facilities where serious workplace hazards exist.

According to Cowan, OSHA also is considering, when responding to a complaint about a particular workplace, conducting less than a "wall-to-wall" inspection.

In a related development, Dr. Ernest G. Letourneau, director of the Radiation Protection Bureau of the Canadian Health Department, said recently VDTs carry no radiation hazard.

OSHA's Cowan (left) talks with Gale W. Freeman of the Minneapolis Star and Tribune.

Writing in the Canadian Medical Association Journal, Letourneau said VDTs do not emit X-rays—that X-rays produced inside the terminals are absorbed by the glass on the screen. He said ultraviolet radiation levels are 1,000 times lower than those found outdoors; infrared radiation is negligible; and microwave radiation is nonexistent.

He also said there is no reason to believe the operation of VDTs causes more eyestrain or pains in the upper body than "any other occupation that involves somewhat tedious work requiring a fixed position and visual concentration." ☐

Regulatory notes

The **Privacy Protection Act of 1980,** implemented on the federal level the first of this year, took effect at the state and local levels Oct. 14. Except under certain limited circumstances, the law prohibits law enforcement officers from using search warrants to obtain documentary materials from the press [**presstime**, Feb. 1981, p. 17].

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The Federal Trade Commission recently released **line-of-business reports** for the years 1974 and 1975 and is working on reports for more recent years. Legal challenges caused the delay in publication.

The program requires diversified companies to report information by specific product line, thereby providing a more detailed picture of industry performance than has been available before. The reports contain aggregate information about industries, not individual company reports.

The report on newspapers was based on information supplied by six companies—Gannett Co. Inc., Knight-Ridder Newspapers Inc., The New York Times Co., Time Inc., The Times Mirror Co. and the Tribune Co. of Chicago.

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The Federal Trade Commission Sept. 30 officially abandoned its controversial attempt to regulate **children's television advertising.**

Terminating the effort had been recommended by the FTC staff earlier this year [**presstime**, May 1981, p. 13].

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The Equal Employment Opportunity Commission published in the Sept. 29 Federal Register its final interpretations of the **Age Discrimination in Employment Act**, which is designed to protect workers aged 40 to 70.

Under the interpretations, apprenticeship programs will continue to be exempt [**presstime**, Feb. 1981, p. 17] and the terms "young" or "college student" can be used in help-wanted ads without being *per se* violations of the act. ☐

Noise cases at papers end

Four cases of alleged noise-standard violations by newspapers have been concluded. One was dismissed by the Occupational Safety and Health Administration, two were settled with that federal agency, and the violation cited in the fourth case was remedied.

The newspapers were assisted in the cases by staff members of the ANPA Research Institute [**presstime,** April 1981, p. 17].

The dismissed complaint had, in part, cited the Colorado Springs (Colo.) Sun for:

- Subjecting employees to excessive sound levels
- Not using feasible administrative or engineering controls to reduce sound levels
- Not administering a continuing, effective hearing conservation program.

The settlements came in cases involving The Denver Post and The Cincinnati Enquirer. In both cases, the newspapers did not admit to any violations.

The Post had been cited for failure to implement engineering noise controls.

Under the settlement, OSHA dropped its citations, and the Post stopped contesting them.

The newspaper agreed to:

- Make efforts to minimize the time individual pressmen are required to be at the presses
- Make efforts to ensure that employees in the rotogravure pressroom continue to alternate or rotate job duties, and that they stand away from the folder as much as possible
- Instruct pressmen to move to low-noise areas whenever possible, as determined by management
- Ensure that each pressman is told which machinery produces high noise levels and to what extent exposure can be reduced by observing certain work practices
- Ensure that hearing protectors are properly worn when necessary
- Provide mailroom employees with hearing protection.

The Cincinnati daily had been cited for failing to implement administrative or engineering controls and for failing to administer a continuing, effective hearing conservation program.

Under its settlement, OSHA dismissed the first citation, reclassified the second to a lesser violation and dropped the fine for the second.

The Enquirer, in turn, agreed to:

- Construct quiet rooms in its pressroom
- Devise a rotation plan for employees operating folder controls
- Implement a hearing conservation program, including employee training and audiometric testing.

Actual construction of the quiet rooooms will depend on when the newspaper decides to install new press units.

In the fourth case, the Detroit Free Press was cited for excessive noise in its reel room. The newspaper requested a noise study by ANPA/RI, which confirmed OSHA's contention that workers were being exposed to noise levels slightly above the daily permissible limits.

The Free Press instituted administrative controls which reduced noise to permissible levels or lower, according to a second ANPA/RI study.

Another noise case, involving the Rocky Mountain News of Denver, is scheduled to go to trial Nov. 16. OSHA has cited the News for failure to implement engineering noise controls. ANPA/RI environmental engineers will testify for the defense. ☐

ANPA publishes guide to OSHA regulation

A "Managers Guide to OSHA Regulation" is being published by ANPA. One copy will be made available to each member newspaper.

The publication contains an overview of the federal government's involvement in regulating the health and safety of the workplace; the role of newspaper management in inspections by the Occupational Safety and Health Administration—including the most frequently asked questions about the inspection and citation process and the procedures involved in appealing citations.

The guide includes a digest of OSHA noise cases involving newspapers. ☐

Supreme Court agrees to hear NBC libel case

The U.S. Supreme Court Oct. 5 agreed to review its first libel case since 1979. It involves the question of public figure status and is one of five press-related actions by the court early in its new term.

Victoria Price Street claims the National Broadcasting Co. defamed her with its 1976 television movie, "Judge Horton and the Scottsboro Boys," about an incident 50 years ago in which she and another woman claimed to have been raped by nine black men. The men were found guilty in trial court, but the U.S. Supreme Court in 1932 overturned their convictions.

Street has said that whatever public figure status she had in the '30s no longer existed in 1976.

The Supreme Court has held (see list, p. 8) that in order to recover damages public figures must show that the media acted with "actual malice." Private figures have a lesser standard to meet in libel cases.

The justices Oct. 19 also agreed to decide a case which could increase the cost of installing cable television systems.

The case stems from a complaint by a Manhattan apartment house owner who claims Teleprompter Corp. should pay her a fee for installing equipment on top of her building to serve nearby residents.

A New York state law now says cable companies must pay only a nominal fee.

The court refused to review the other three press-related cases. It let stand lower-court decisions:

- Reversing a trial-court libel judgment against the Pacific Daily News of Guam.
- Ordering The Anchorage (Alaska) Times to bargain with International Brotherhood of Electrical Workers on an initial contract for editorial and commercial employees [**presstime,** June 1981, p. 46].
- Overturning an arbitrator's award that would have required management of The Milwaukee Journal and Milwaukee Sentinel to bargain with the International Typographical Union over the impact of an electronic copy processing system on composing room employees [**presstime,** March 1981, p. 46]. ☐

Government probes Salem case

The U.S. Justice Department has opened an investigation into issues raised in a 1978 lawsuit in which the publisher of a free-circulation weekly in Oregon charged that Gannett Co. Inc. used illegal, predatory means to drive it out of business.

That suit was settled out of court in June [**presstime,** Aug. 1981, p. 17].

A lawyer in the Justice Department's Antitrust Division characterized the investigation as preliminary.

Civil investigative demands have been issued to Gannett—publisher of the Statesman-Journal of Salem (formerly the Oregon Statesman and The Capital Journal)—and to Community Publications Inc.—publisher of a free-circulation paper in Salem in 1976-78. Sought are documents relating to the competition between their newspapers.

In another court matter involving Gannett, a freelance advertising coordinator filed a suit alleging antitrust violations by the communications company and its wholly owned subsidiary, Federated Publications, publisher of The Idaho Statesman in Boise.

Philip J. Drinkwine and SAC Enterprises Inc. charged that Gannett and Federated engaged in activities designed to destroy his Boise advertising-preprint business. Drinkwine is seeking damages but has not made a specific monetary request.

In his complaint filed Sept. 11 in U.S. District Court in Idaho, Drinkwine alleged violations of Sections 1 and 2 of the Sherman Act, prohibiting combinations in restraint of trade and attempts to monopolize; and of the Robinson-Patman Act, prohibiting price discrimination.

Subsequently, the Robinson-Patman Act claim was dismissed on a motion that newspaper advertising is not a commodity and therefore not subject to Robinson-Patman, Statesman attorney Robert L. Bilow said.

Court briefs

A U.S. District Court judge Oct. 5 refused to dismiss a suit against The Honolulu Star-Bulletin and The Honolulu Advertiser over its **joint operating agreement** [**presstime,** May 1981, p. 12].

Judge Jesse W. Curtis also refused a motion for summary judgment filed by the plaintiffs—the city and county of Honolulu—asking that Curtis immediately decide the case in their favor.

Curtis said a jury trial should decide whether the Advertiser would have folded without the joint agreement, which dates back to 1962. No date was set.

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Robert M. McKinney Sept. 30 filed notice that he will appeal in the 10th U.S. Circuit Court of Appeals the decision of U.S. District Court Judge Santiago Campos regarding how Gannett Co. Inc. will **return ownership of The New Mexican** in Santa Fe.

Campos Sept. 29 refused McKinney's motion for a new jury trial, in which McKinney said he would seek punitive and ancillary damages [**presstime,** Oct. 1981, p. 17].

Meanwhile, Gannett Oct. 7 filed notice of a counter-appeal of Campos' decision.

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In another case involving a Gannett newspaper, a Brevard County, Fla., jury said Today of Cocoa must pay $10,000 in damages to a woman who charged **invasion of privacy** after the newspaper published a photograph taken of her as she ran, covered only by a towel, from a crime scene.

The woman had been held at gunpoint nearly three hours by her estranged husband who forced her to disrobe to discourage an escape attempt.

Her attorney claimed Today could have used other, less embarassing photographs. But Gannett claimed that restricting such photos of news events would hinder the public's right to know.

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In a case raising international media-law problems, reporters from two U.S. newspapers obeyed a **Canadian court order not to report on testimony** in a bond hearing for a woman charged with murdering her two-year-old son by dropping him over Niagara Falls.

Editors of The Buffalo Evening News and the Buffalo Courier-Express decided to obey the order of the Ontario Supreme Court to avoid contempt citations. Those citations could have resulted in the newspapers' reporters covering the bond hearing in Welland, Ontario, not being allowed back into the United States. The Canadian government also "could ban our circulation" in Canada, explained Evening News Editor Murray B. Light.

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The National Enquirer has filed suit against Employers Reinsurance Corp. over that firm's alleged **failure to pay a libel claim** of $800,000 resulting from the Carol Burnett case earlier this year [**presstime,** July 1981, p. 25].

Comedienne Burnett won a judgment of $750,000 in punitive damages and $50,000 in actual damages.

Enquirer attorney Irving Younger of Washington, D.C., says the legal snarl stems from an unclear California statute which forbids insurance companies to pay claims "on account of the willful wrong of the insured." California is one of a number of states which in effect disallow insurance companies to pay off punitive-damage claims.

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The Washington Post Oct. 22 **apologized to former President Jimmy Carter** after Carter threatened to sue over an item appearing in the Post's "Ear" column reporting Blair House was bugged while President-elect Ronald Reagan and wife Nancy were guests there.

Two days later, it was announced that Carter would not file a suit.

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Guilford County, N.C., Superior Court Judge William Z. Wood Oct. 15 **dismissed charges in the embezzlement trial** against Robert Larry Thayer, saying criminal prosecutors failed to show that Thayer was guilty of taking more than $33,000 in property of the Greensboro Daily News and Record [**presstime,** Sept. 1981, p. 10].

However, prosecutors said they were considering a new indictment against the former newspaper circulation director, who also faces charges in New Jersey.☐

Boost in third-class rates eases threat to newspapers

The U.S. Postal Service Board of Governors' adoption of new, higher rates for third-class mail has eased but not eliminated the threat the relatively low previous rates posed to the newspaper business.

The governors' action Sept. 30 was consistent with ANPA recommendations that USPS set third-class rates reflecting the cost to provide the service [**presstime**, Oct. 1981, p. 14].

The rate package also included phased, second-class increases at a slightly lower rate than those recommended by the independent Postal Rate Commission and implemented last March under protest by USPS.

The latest increase in third-class rates "will not adversely affect the ability of shared mailers to compete for the insert business," according to James H. Hollis, vice president/mass merchandising sales of the Newspaper Advertising Bureau.

The increase amounts to a "modest" 14 percent from the rates in effect before the period of low "temporary" rates, which were imposed in March, he said in an Oct. 13 letter to publishers and advertising directors.

"We are forecasting a decline in newspaper inserts for 1981 contrasted with accelerated growth in third-class mail," Hollis said.

The ANPA Postal Committee, meanwhile, is forming a special task force to monitor the third-class issue.

The temporary third-class rates that went into effect in March lowered the minimum per-copy cost from 6.7 to 6.4 cents. The effective decrease was much greater, however, because the "break point"—the maximum weight per piece to qualify for the lowest rate—was increased from 3.73 ounces to 5.04 ounces.

That greatly enhanced the attractiveness of "shared mail," a system in which several ad supplements are stuffed into a wrapper or simply bunched as a single unit.

The new rate for such mailings, which the Postal Service said likely will be in effect for the next three years, is a minimum unit cost of 7.9 cents coupled with a break point of 3.88 ounces.

Meanwhile, seven organizations, including two news magazines, filed notices of appeal in federal court over the new rate package.

Three groups asked federal courts to block the higher rates via injunction. They are the Mail Order Association of America, United Parcel Service and the Direct Mail/Marketing Association.

USPS replied that statutory law prohibits courts from enjoining rate cases.

The governors' action culminates a rate case USPS initiated in spring of 1980. It was marked by sharp disagreement between the Postal Service and the independent Postal Rate Commission, which reviews USPS recommendations and acts as the quasi-regulatory agency for rates.

Three times the PRC rejected the Postal Service's proposed rate package. The rift ended in September when the governors—who claim to have "final authority over postal rates"—exercised their prerogative to "modify" the counter-recommendations of the PRC and to establish the latest rates.

The PRC has no authority to appeal the governors' decision. ☐

ANPA scores Postal Service's advertising plans

The U.S. Postal Service's proposal to sell advertising space in its facilities and on its mailboxes has drawn fire [**presstime**, Oct. 1981, p. 11].

In a statement Oct. 23, ANPA said "very disturbing, First Amendment questions" would be raised if the Postal Service places itself in the "subjective position of having to determine somehow what is and is not acceptable advertising." The proposal "clearly steps over the line which must be drawn between government and an unrestricted, free press in our free society."

ANPA also cited concerns that delivery service could be adversely affected if USPS "moves its focus toward advertising or other marketing functions." ☐

Transportation notes

Conrail plans to ask the Interstate Commerce Commission Dec. 1 for permission to **discontinue service on 385 freight lines** totaling nearly 2,800 miles in 13 states. The company said the lines are infrequently used or in a state of disrepair, with the greatest portion of them in Pennsylvania, New York and Ohio.

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Only three of the 37 major **U.S. railroads** earned an adequate—at least 12.1 percent—**rate of return** on their investments in 1980, according to standards established by the ICC earlier this year [**presstime,** May 1981, p. 17]. They were the Fort Worth & Denver Railway Co., the Clinchfield Railroad Co., and the Pittsburgh & Lake Erie Railroad.

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The ICC Sept. 28 approved a fourth-quarter, cost-recovery **rate increase** of 1.4 percent by **U.S. railroads.** It was effective Oct. 1 on traffic within the United States and Oct. 20 on traffic from or to Canada [**presstime,** Oct. 1981, p. 50].

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The boards of the **Burlington Northern Railroad** and the **Colorado and Southern** have approved a definitive **merger agreement,** subject to ICC approval. The BN would be the surviving corporation.

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The **Milwaukee Road** filed a **reorganization plan** with the line's bankruptcy court and the ICC. It calls for a further, 1,000-mile reduction in the size of the railroad, already cut from 10,000 to 3,900 miles. Equipment and employee cutbacks also are included. Pending disposition of the plan, interim service by other railroads continues over the Milwaukee's embargoed lines [**presstime,** April 1981, p. 20].

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The ICC reduced the **fuel-recovery surcharge** for less-than-truckload traffic from 3.1 to 3 percent [**presstime,** June 1981, p. 41].

Meanwhile, the commission said it is changing regulations governing the surcharge. It will allow regulated carriers to cover fuel-related costs in their freight rates and to compensate the independent owner-operators on a basis tied to truck mileage. ☐

IPDC development proposals emphasize government efforts

About 15 proposals to improve communications in the Third World will be discussed at the second meeting of the International Program for the Development of Communication Jan. 18-25 in Acapulco, Mexico.

Also on the agenda are selection of a program director for the UNESCO-sponsored IPDC and a further discussion of funding [presstime, July 1981, p. 29].

Proposals and their projected cost include:

Africa

- Developing national and regional news agencies, $1.5 million
- Creating a regional center for communications training and development, $1.2 million
- Setting up a regional training program for communications planning, $240,000

Arab states

- Planning a satellite system for news and program exchanges, $220,000
- Creating a regional system to promote and exchange communications research, $200,000
- Setting up a center for broadcasting training, $250,000
- Developing a training program for communications planning, $190,000

Asia and the Pacific

- Developing a news exchange program, $350,000
- Awarding a three-year grant to the Asia-Pacific Institute for Broadcasting Development, $330,000
- Setting up a radio and television exchange, $220,000
- Developing a Pacific radio program exchange, $200,000

Latin America

- Creating a regional training program for communications planning, $240,000
- Creating a center for development of social communication, $100,000
- Developing a news feature system, $220,000
- Funding a program exchange by the Caribbean Broadcasting Union, $200,000.

Dana Bullen, executive director of the World Press Freedom Committee, said, "It is unfortunate that these proposals mainly seem directed at strengthening communications capabilities of governments. For an organization (IPDC) devoted to pluralism, the needs of independent media strangely seem to be ignored."

The WPFC plans to send representatives to the meeting.

World press notes

The 32-member **World Press Freedom Committee** has located its **Washington-area office** [presstime, Oct. 1981, p. 19] at The Newspaper Center in Reston, Va.

New WPFC Executive Director Dana Bullen said, "The Newspaper Center is dedicated to preservation of a free and independent press. So are we."

The committee's new address is WPFC, Box 17407, Dulles International Airport, Washington, D.C. 20041; (202) 620-9500.

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Four journalists and communications experts from Third World countries will be among those attending the American Press Institute's first **seminar on "Reporting the Developing Nations**," Nov. 1-6 in Reston, Va.

The four—two from Latin America, one each from Africa and Sri Lanka—received scholarships from the WPFC.

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The **International Press Telecommunications Council** will begin offering **voting memberships** to individual newspapers in January as a result of a recent change in the organization's articles of association.

Until now, voting memberships have been held only by press organizations such as ANPA. A few newspapers have had associate memberships but not voting power.

A newspaper's voting share will cost 3,744 Swiss francs or approximately $2,012 a year. ANPA will continue its membership and participation in IPTC.

The IPTC was created in 1965 to work for more favorable conditions for the exchange of news and information across national boundaries through access to more efficient and economic telecommunications [presstime, Nov. 1982, p. 52].

For additional information, contact Martin Casey, ANPA manager/government affairs, at The Newspaper Center.

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The non-profit, volunteer **Committee To Protect Journalists** is seeking $43,400 for its activities on behalf of threatened reporters, editors and publishers around the world.

The committee hopes to set up a central pool of information about abuses against the media, send letters and cables supporting imprisoned and harassed journalists, and publicize instances of violence and abuse.

Founded in January [presstime, March 1981, p. 23], the committee has received grants from the Rockefeller Brothers Fund, the Hopewell Foundation, the Alicia Patterson Foundation and an anonymous donation. Its 1982 budget projects funding for an office, a newsletter and a $15,000 staff position, among other expenses.

For more information, contact Co-directors Michael Massing or Laurie Nadel at the Committee To Protect Journalists, 122 E. 42nd St., 46th Floor, New York, N.Y. 10168; (212) 697-7525.

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Charles E. Scripps, chairman of the board of E.W. Scripps Co., was elected president of the **Inter American Press Association** during IAPA's General Assembly in Rio de Janeiro. Helen K. Copley of The Copley Press Inc., La Jolla, Calif., was named second vice president.

Also elected at the October meeting were Andres Garcia Lavin, Novedades de Yucatan, Morida, Mexico, first vice president; Oliver Clarke, Daily Gleaner, Jamaica, treasurer; and Jorge Remonda, La Voz del Interior, Cordoba, Argentina, secretary.

Rep. Wirth readies legislation for introduction

November promises to be a key month if the effort to get telecommunications deregulation legislation enacted during this Congress is to succeed.

With Senate passage of its version of the bill Oct. 7, the focus has shifted to the House where Telecommunications Subcommittee Chairman Timothy E. Wirth (D-Colo.) has promised he will introduce his telecommunications legislation by the end of this month [**presstime,** Oct. 1981, p. 22].

Rep. Wirth, speaking to the Southern Newspaper Publishers Association's annual meeting Oct. 26, said he expected committee hearings on the legislation "late this year or in early 1982." He said he is "looking forward to House floor consideration late next spring."

The legislative process on deregulation could extend right to the end of the congressional session next year, according to Richard E. Wiley of the Washington office of Kirkland & Ellis, communications counsel to ANPA. And that end presumably will be early, as is the custom in an election year, to allow legislators to return to their home districts and campaign.

Wiley spoke at the Oct. 8 meeting of the Committee, one day after the Senate voted 90-4 for S 898, which would bar AT&T from becoming an electronic publisher of information over its own local monopoly lines.

Later the same day, counsel for the House Telecommunications Subcommittee, Thomas Rogers, told the ANPA group that he felt the congressional panel was proceeding "very much on schedule" to produce a deregulation bill.

Rogers said his boss, Wirth, is "100-percent dedicated to legislation" and "totally, totally committed to not letting this opportunity go by."

In the last Congress, Wirth authored an amendment incorporated into legislation approved by the House Commerce Committee that would have prohibited AT&T from offering "mass media" services. The effort to get a telecommunications deregulation bill passed by the House was sidetracked, however, at the last minute by an adverse report by the House Judiciary Committee.

Rogers assured the ANPA Committee that the subcommittee was working closely with the Judiciary Committee this year on the legislation. The Judiciary Committee members, he said, have "indicated repeatedly that there is no intention at all on their part to serve as an obstacle."

According to Rogers, Wirth's subcommittee planned to release its 700-page report on the status of competition in telecommunications markets in late October and to introduce its deregulation bill in November.

The subcommittee hopes to hold hearings on the bill prior to the end of the year and early next year mark up a bill for full Energy and Commerce Committee consideration. If the Judiciary Committee's concerns are dealt with, and the Commerce Committee approves the bill and sends it to the House floor, and the House approves it, the process still is not completed.

The important final step in the legislative timetable, a joint House-Senate conference to reconcile differences between a bill passed by the House and S 898, would take place in the spring, Rogers said.

The subcommittee's massive report on telecommunications competition, based on hearings that concluded in September and in which ANPA participated [**presstime,** July 1981, p. 33], is designed to provide members of the House with background information on the issue. Lack of this kind of information was another impediment to action in the House in the last Congress, Rogers said.

But, that report has been delayed from its originally-anticipated August promulgation date.

In a related development, the Federal Communications Commission Oct. 7 delayed implementation of its Computer II Inquiry decision from March 1, 1982, to Jan. 1, 1983, if legislation is not enacted first, and if court challenges are unsuccessful. Computer II will allow AT&T to enter unregulated, new-technology services via a separate subsidiary.

And in the long-running antitrust trial against the Bell system, U.S. District Court Judge Harold H. Greene Oct. 15 said he hopes to render a decision in the case by July 1982. ☐

At the October meeting of the ANPA Telecommunications Committee, Bernard Wunder (left) of the National Telecommunications and Information Administration studies report with Wiley (center) and Committee Chairman Robert G. Marbut of Harte-Hanks Communications Inc.

ANPA committee studies liaison with cable association members

Concern about newspapers' ability to negotiate long-term leases with cable system operators is among the reasons prompting the ANPA Telecommunications Committee to explore the feasibility of greater liaison with the National Cable Television Association.

The idea was one of many cable-related matters that dominated much of the Committee's Oct. 7-9 meeting.

Committee member Robert M. Johnson of the Dispatch Printing Co., Columbus, Ohio, cited a recent survey by the International Newspaper Advertising and Marketing Executives that showed a high degree of interest by newspapers in acquiring cable channels.

Of the 106 newspapers participating in the INAME study, 94 said they were either "very interested" or "interested" in acquiring a cable channel in their market.

But as newspapers' interest in leasing channels "is picking up dramatically," cable system operators have put them on "a very strong hold," Johnson said.

Tele-Communications Inc. of Denver, the nation's third largest cable-television multiple-system owner, is one that has advised its local systems not to enter into agreements with newspapers until a company-wide policy is determined [**presstime,** Oct. 1981, p. 23].

Charles H. Everill of Harte-Hanks Communications Inc. and Maxwell McCrohon of the Tribune Co., Chicago, will head the study to determine the need for and goals of the increased newspaper/cable liaison. Everill is vice chairman of the Committee's Advanced Communications Subcommittee, and McCrohon is chairman of the Subcommittee's task force for monitoring and reporting technical and marketing developments.

NCTA is the major trade association for the cable television industry, representing 1,808 systems with 65 percent of the nation's cable subscribers.

While newspapers are interested in acquiring cable, however, they are not interested in acquiring the government regulation that accompanies involvement in much of the electronic information arena.

Noting the recommendation of the Federal Communications Commission that Congress remove equal time and Fairness Doctrine requirements from broadcasters, K. Prescott Low of The Patriot Ledger, Quincy, Mass., chairman of the ANPA Government Affairs Committee, said he believes it is "desirable" for newspapers to work for the removal of those restrictions.

How much, if at all, those restrictions should affect electronic publishing has not been addressed yet.

Richard M. Neustadt of the Washington, D.C., office of the Kirkland & Ellis law firm, summarized the situation in a recent article in Telecommunications magazine as follows:

"If information is sent on a telephone line, or on a cable channel controlled by someone other than the cable operator, or broadcast on a microwave frequency, the content rules do not apply. If it is on a cable operator's channel, or on TV, scrambled and sold to paying subscribers, then the content rules probably apply, but the FCC has the power to drop them. If it is on TV and supported by advertisers for the general public, the FCC probably cannot drop the statutory rules."

Neustadt was associate director of the White House Domestic Policy Staff in the Carter administration.

Another aspect of government regulation—the growth of direct municipal ownership of cable systems—also was discussed at the meeting, with the representative of the American Society of Newspaper Editors, McCrohon, reporting the concern of that organization.

The Committee's Public Policy Subcommittee will explore both regulatory issues.

Charles M. Kinsolving Jr., vice president/marketing-planning of the Newspaper Advertising Bureau, told the Committee that NAB plans to hire a full-time telecommunications marketing specialist.

L. John Rothwell of Southam Inc. also reported that individual newspapers now may become voting members of the International Press Telecommunications Council (see story, p. 17). ☐

Telecommunications notes

The Bakersfield Californian said Oct. 7 it has entered into a joint venture to provide an **electronic agribusiness information service**.

The newspaper's partner in the telephone-based videotex service, scheduled to begin in the third quarter of 1982, is Informart, a joint venture of Canada's Torstar Corp. and Southam Inc., both newspaper publishers. The service will use the Telidon graphics technology developed in Canada.

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AT&T and CBS Inc. announced Oct. 8 they will conduct a test of a **telephone-based videotex** service in the fall of 1982 [**presstime,** Oct. 1981, p. 24]. The trial will involve 200 households in Ridgewood, N.J., which will use the service free of charge.

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Dow Jones & Co. Inc. has agreed in principle to purchase up to 24.5 percent of Continental Cablevision Inc., the nation's 13th largest cable multiple system operator. Boston-based Continental has an interest in 60 cable systems in 10 states.

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CompuServe, an electronic information-retrieval service [**presstime,** July 1981, p. 19], now offers **classified advertising.** The St. Louis Post-Dispatch in September became the first newspaper to include classified ads among the information it is providing.

By late October, 10 of the 11 newspapers scheduled to participate in the experiment were on the system.

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The Federal Communications Commission Oct. 22 began a rulemaking aimed at authorizing television stations to provide **broadcast teletext** in the vertical blanking interval of their video signal.

The commission did not propose a standard teletext technology, opting rather for what it called an "open environment" in which broadcasters could choose the technical system that best fits their needs. Several technologies are currently available, including Prestel from Britain, Antiope from France, and Canada's Telidon [**presstime,** April 1981, p. 25]. ☐

Guidelines on tax treatment of cable assets

By L. Peyton Hendricks

(Editor's note: An increasing number of newspapers are buying or contemplating buying cable television systems. This gives rise to various tax considerations with which newspaper managers should become familiar. While specific application of the complex tax laws should be handled by professional tax specialists, this article offers some guidelines for handling a key subject in cable acquisition—treatment of tangible and intangible cable assets for depreciation purposes.)

Many questions about the tax treatment of a cable acquisition have not been resolved definitively by the federal appellate courts, which generally are the final arbiters on questions of tax law.

Because of the relative newness of the medium, tax specialists must often make judgments by reference to principles applied to broadcast properties. If no suitable broadcast analogy can be found, general tax principles and reasoning must be employed.

Like other communications entities, a cable television company possesses both intangible and tangible assets. The former category consists of such things as the cable franchise, contracts with key employees, and rights to feature films and movies. In the latter category are such obvious items as buildings, technical equipment and vehicles.

One of the first steps in a depreciation analysis is to determine whether a particular asset will qualify for depreciation or amortization deductions. The Internal Revenue Code permits depreciation and amortization deductions from income of the company based on the useful life of the asset and its cost.[1] The practical effect of this is to shelter the company's income by writing off the cost of an asset as it ages toward the end of its useful life.

National Cable Television Association

Coaxial cable lines are among a system's tangible assets which may be depreciated.

Intangible cable assets. If a cable corporation's intangible assets can be depreciated at all, it will be because they have a determinable, useful lifespan. The Internal Revenue Service says: "If an intangible asset is known from experience or other factors to be of use in the business or in the production of income for only a limited period, the length of which can be estimated with reasonable accuracy, such an intangible asset may be the subject of a depreciation allowance. Examples are patents and copyrights. An intangible asset, the useful life of which is not limited, is not subject to the allowance for depreciation. No allowance will be permitted merely because, in the unsupported opinion of the taxpayer, the intangible asset has a limited useful life. No deduction for depreciation is allowable with respect to goodwill."[2]

The depreciation status of many of a cable company's intangible assets can be ascertained quickly by an acquiring newspaper. These assets might include such things as leases and advertising contracts. Other intangibles, not commonly found in the newspaper business, may require closer scrutiny, frequently by comparison to a similar broadcast industry asset. Some examples:

Cable franchise—A cable company's most important intangible asset is its franchise because it confers authority to operate in a given location. The functional equivalent of a franchise—a Federal Communications Commission license—may not normally be either depreciated or amortized. With only one reported exception, the IRS has been able to argue successfully before the courts that even though the FCC license must be periodically reviewed and reissued, renewal is in most instances a virtual certainty and the asset really has no determinable useful life.[3]

Apparently, no federal appeals court has considered in detail whether a cable franchise typically would be denied depreciation treatment on similar grounds. The lower level U.S. Tax Court has both allowed[4] and denied[5] a depreciation deduction for the asset, noting that its action in a given case was determined largely by the particular circumstances surrounding the franchise.

A cable-system owner may be able to demonstrate to the satisfaction of an appeals court that because franchise renewals are subject to the whims of local political bodies lacking the expertise and detachment of the FCC, such renewals are much less certain. Determined struggles for a local franchise by competitors could also be cited, as well as the possibility of the municipality's undertaking operation of

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Hendricks is ANPA staff counsel.

the system. Therefore, the argument would run, renewal is by no means a certainty.

Ultimately, the answer may turn on the national "track record" for franchise-renewal proceedings. If cable operators are able to obtain a uniform, successful record for renewal, the IRS may be able to demonstrate by statistics that the useful life of a franchise is indeterminate.

Motion picture and television films—Exhibition rights for television and movie films may also be an important intangible asset for a cable operator. It has been held for the broadcast industry that the cost of obtaining such rights may be depreciated by one or two methods depending on the marketability of the film.

The Tax Court ruled in 1968 that television and motion picture films scheduled for initial runs are depreciable on the basis of a "sliding scale, income forecast" analysis.[6] As the term suggests, this method allows a proportionately larger deduction in the feature's early life when it will have its greatest attraction for advertisers and audience, and thus its greatest income-producing potential.

In the 1968 case, the Tax Court agreed with the broadcaster that 60 percent of the depreciable value of a top-grade film could be allowed for the first run, 15 percent for the second and 5 percent for each of the remaining five.

Asset Depreciation Range for cable television assets

Internal Revenue Service's asset guideline class	Description of assets included	Asset Depreciation Range (in years)			
		Lower limit	Asset guideline period	Upper limit	Annual asset guideline repair allowance percentage
	Cable television (CATV): Includes communications-related assets used to provide cable television (community antenna television services). Does not include assets used to provide subscribers with two-way communications services.				
48.41	**CATV-headend:** Includes assets such as towers, antennas, preamplifiers, converters, modulation equipment, and program non-duplication systems. Does not include headend buildings and program origination assets	9	11	13	5
48.42	**CATV-subscriber connection and distribution systems:** Includes assets such as trunk and feeder cable, connecting hardware, amplifiers, power equipment, passive devices, directional taps, pedestals, pressure taps, drop cables, matching transformers, multiple set connector equipment, and converters	8	10	12	5
48.43	**CATV-program origination:** Includes assets such as cameras, film chains, video tape recorders, lighting, and remote location equipment excluding vehicles. Does not include buildings and their structural components	7	9	11	9
48.44	**CATV-service and test:** Includes assets such as oscilloscopes, field strength meters, spectrum analyzers, and cable testing equipment, but does not include vehicles	7	8.5	10	2.5
48.45	**CATV-microwave systems:** Includes assets such as towers, antennas, transmitting and receiving equipment, and broad band microwave assets if used in the provision of cable television services. Does not include assets used in the provision of common carrier services	7.5	9.5	11.5	2

The IRS argued unsuccessfully that the proper depreciation method was a straight-line deduction based on the duration of the film-lease contracts. However, the IRS's requested depreciation method is the one which probably would apply if the owner of the film rights is not able to demonstrate a varying-income potential, as in the case of older films lacking novelty appeal.

Contracts with key employees—The courts and the IRS have long recognized that employment contracts with key personnel of a business may be eligible for a depreciation allowance under circumstances where the contracts can be characterized as distinct assets having an existence and value apart from "goodwill" and "going concern" value.[7]

In a leading case in the broadcast industry, the U.S. Court of Claims held that employment contracts for a radio station manager and disc jockeys had a determinable, useful life consisting of the initial term of the agreement plus the renewal period; thus, they were comparable to contracts with professional athletes. That portion of the purchase price of the station allocable to each contract could be amortized by the straight-line method.[8]

Subscriber lists—The U.S. Court of Appeals for the 8th Circuit in 1979 affirmed a 1977 federal District Court decision denying depreciation treatment to subscriber lists purchased by the buyer of a cable TV operation.[9] As with employee contracts, the court held that a depreciation allowance depends on the taxpayer being able to establish that the lists have ascertainable value apart from goodwill and a limited useful life of known duration.

Subscriber lists are non-depreciable, the court said, because they are simply customer structures bought with an eye toward continued patronage, and that expectation of continued patronage is an inherent aspect of goodwill.

On the other hand, in a 1973 case involving the Houston Chronicle, the 5th Circuit Court of Appeals suggested that newspaper subscriber lists purchased by a company may be amortized.[10] The court said that the so-called "mass assets" rule did not apply to the case. (That rule essentially is that an asset consisting of a number of separate components that are periodically depleted and replenished, may not be amortized because it is not a truly "wasting asset," i.e., one subject to wear and tear, with a predictably finite lifespan.)

The appeals court said that if a taxpayer could meet the "dual burden" of proving value separate from goodwill and limited useful life, a deduction could be allowed.

Other cases, however, have held that subscriber lists purchased by a newspaper may not be amortized. As a practical matter, the only thing a newspaper's tax specialists can do is analyze their own transaction in light of all existing rulings.

Contracts with program providers—Providers of independently produced cable programs have increased in both number and sophistication since the advent of the medium.

Several factors could be examined to determine whether contracts with these entities (such as a news or sports "network") are depreciable. One is whether the agreement is in the nature of a network affiliation contract as used in the broadcast industry.

Courts have held that broadcast network affiliation contracts are not depreciable.[11] The usual grounds for these decisions were that local broadcasters would not customarily enter into such arrangements unless they could do so with a reasonable expectation of a continuing relationship with the network.

On the other hand, a cable operator might have several provider agreements for a variety of programming services—each renewable as the interests of the business dictated. Consequently, general rules applicable to the broadcasting situation might have no bearing; no cases involving cable TV companies appear to have been decided.

Miscellaneous contracts—A cable corporation typically will be party to various agreements which have no counterpart in other media operations. These would include features, pole-attachment and channel-lease agreements. Again, there appear to have been no judicial opinions on the specific depreciation treatment of these intangibles, so management would have to be guided by the general rules applying to such assets.

Tangible assets. A cable operator's tangible property presents far fewer tax depreciation questions than intangibles. Identification of the qualified assets would be an easy matter for the specialist charged with analyzing this aspect of the transaction.

In 1971, the IRS implemented the Asset Depreciation Range System—a fairly liberal taxpayer-elective depreciation plan designed in part to stimulate investment.[12] Subsequently, the IRS issued asset-depreciation guidelines prescribing the write-off periods for various kinds of property, including cable assets (see chart, p. 21).

While the ADR system has been supplanted by another rapid depreciation system included in the Economic Recovery Tax Act of 1981, the ADR guidelines retain some importance because they may be used to determine the appropriate write-off period under the new system.

In summary, there is considerable guidance available to help financial managers decide on the tax treatment of cable television assets, both tangible and intangible. While some issues have not been fully resolved by the courts, generally enough information is available to allow for appropriate analysis. ☐

Footnotes

[1] 26 U.S.C. Sec. 167.

[2] 26 C.F.R. Sec. 1.167 (a)-3.

[3] *Forward Communications Corp. v. U.S.*, 608 F. 2d 485 (1979). *Meredith Broadcasting Co.*, 405 F. 2d 1214 (1969). To the contrary, *WDEF Broadcasting Co. v. U.S.*, 215 F. Supp. 818 (1963).

[4] *Chronicle Publishing Co. v. Commr.*, 67 T.C. 964 (1977).

[5] *Toledo TV Cable Co. v. Commr.*, 55 T.C. 1107 (1971).

[6] *KIRO, Inc. v. Commr.*, 51 T.C. 155 (1968).

[7] *Laird v. U.S.*, 556 F. 2d 1224 (1977).

[8] *KFOX, Inc. v. U.S.*, 510 F. 2d 1365 (1975).

[9] *General Television, Inc. v. U.S.*, 598 F. 2d 1148 (1979).

[10] *Houston Chronicle Publishing Co. v. U.S.*, 598 F. 2d 1148 (1979).

[11] *Commr. v. Indiana Broadcasting Corporation*, 350 F. 2d 580 (1965). *Gulf Television Corporation v. Commr.*, 52 T.C. 1038 (1969).

[12] 26 C.F.R. Sec. 1.167 (a)-11.

Newspapers'

(Editor's note: To what degree are newspapers involved in cable television? The lists that follow, compiled by **presstime** *staff writer Margaret Genovese with the assistance of ANPA's Telecommunications Department and* 1980 Television Factbook, *provide as detailed an answer to that question as is currently available.)*

Own systems

The following companies or individuals owning newspaper properties (major newspaper property in parentheses where clarification needed) also have ownership interests in cable television systems.

Arizona

Phoenix Newspapers Inc.: minority interest in six systems in Arizona.

Arkansas

Donrey Media Group of Fort Smith (Las Vegas Review-Journal): one system in California.

Billy Jack Ryan of Dierks (Dierks Banner): one system in Arkansas.

WEHCO Media Inc. of Little Rock (Arkansas Democrat, Little Rock)—affiliate WEHCO Video Inc.: 14 systems in Arkansas, Mississippi, Oklahoma and Texas.

California

Chronicle Publishing Co. of San Francisco—subsidiary Western Communications Inc.: four systems in California, one in New Mexico.

McClatchy Newspapers of Sacramento (The Sacramento Bee): three systems in California; also 60 percent of NorCal Cablevision Inc., 14 systems in California; and 80 percent of Telcab Communications Inc., one system in Nevada.

The Times Mirror Co. of Los Angeles—division Times Mirror Cable Television: 53 systems in Arizona, Arkansas, California, Connecticut, Illinois, Indiana, Kentucky, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas and West Virginia.

Florida

Florida Publishing Co. of Jacksonville (The Florida Times-Union, Jacksonville): four systems and interest in a fifth in Florida.

Georgia

Cox family of Atlanta (The Atlanta Constitution)—approximately 40 percent of Cox Broadcasting Corp., whose subsidiary Cox Cable Communications Inc. has 61 systems in California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Michigan, Minnesota, Nebraska, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Vermont, Virginia and Washington.

cable connection: owning, leasing, using

Illinois

Field Enterprises Inc. of Chicago (Chicago Sun-Times)—subsidiary Field Communications Inc.: four systems in California

Lerner Communications Inc. of Chicago (Lerner Newspapers): interest in eight systems in Illinois

Tribune Co. of Chicago—subsidiary Tribune Co. Cable Inc.: eight systems in California, Louisiana, Maryland, Michigan, New Mexico, New York, Tennessee and Virginia

Indiana

Frankfort Times Inc.: 80 percent of one system in Indiana

Schurz Communications Inc. of South Bend (South Bend Tribune): two systems in Florida and Maryland

George O. Witwer of Kendallville (The Kendallville News-Sun): 24.5 percent of six systems, 33.3 percent of one system, 20 percent of one system, all in Indiana

Kansas

Emery family of Fort Scott (The Fort Scott Tribune): interest in one system in Kansas

Stauffer Communications Inc. of Topeka (The Topeka Capital-Journal): 50 percent of one system in Texas

The World Co. of Lawrence (The Lawrence Daily Journal-World): two systems in Kansas and Colorado

Carter Zerbe of Augusta (The Augusta Daily Gazette): one system in Kansas

Maryland

Great Southern Printing and Manufacturing Co. of Frederick (The Frederick News-Post): 7 systems in Maryland, Pennsylvania and West Virginia

Massachusetts

Affiliated Publications Inc. (The Boston Globe): interest in McCaw Communications Co., three systems in Alaska and Washington

Michigan

John B. Stafford of Greenville (The Daily News): one system in Michigan

Minnesota

Minneapolis Star and Tribune Co.: one system in New York

Charles B. Paulson of Mountain Lake (Observer/Advocate): 20 percent of one system in Minnesota

Missouri

News-Press and Gazette Co. of St. Joseph: two systems in Missouri

Nevada

H. M. Greenspun of Las Vegas (Las Vegas Sun): 50 percent of one system in Nevada

New Jersey

Greater Media Inc. of East Brunswick (The Sentinel, East Brunswick): 11 systems in Massachusetts

Home News Publishing Co. of New Brunswick (The Home News): 60 percent of Perkiomen Home-Vue Inc., with two systems in Pennsylvania

Kilgore family of Princeton (The Princeton Packet): 20 percent of Home Link Communications, with one system in New Jersey

New York

Capital Cities Communications Inc. of New York City (The Kansas City Star): 51 systems in Arizona, California, Illinois, Indiana, Iowa, Kansas, Mississippi, Michigan, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, Tennessee and Texas

Dow Jones & Co. Inc. of New York City: 40 percent of Home Link Communications, with one system in New Jersey

The New York Times Co.—affiliate NYT Cable TV: one system in New Jersey

Newhouse organization of New York City (The Star-Ledger, Newark, N.J.): 72 systems in Alabama, Florida, Illinois, Indiana, Kentucky, Louisiana, Michigan, Nebraska, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Texas, Wisconsin and Wyoming

Time Inc. of New York City (Pioneer Press Inc.)—subsidiary American Television & Communications Corp.: 125 systems in 33 states

Ohio

Horvitz Co. of Valley View (News Journal in Mansfield): seven systems in Ohio and Virginia

E. W. Scripps Co. of Cincinnati (Rocky Mountain News, Denver): 74.96 percent of Scripps-Howard Broadcasting Co., whose subsidiary Scripps-Howard Cable Service has interest in six systems in California, Connecticut, Florida, Massachusetts and Michigan

Toledo Blade Co.: three systems in Ohio and Michigan

Oklahoma

Stillwater Publishing Co. (Stillwater News-Press): 20 percent of two systems in Oklahoma

Pennsylvania

Lancaster Newspapers Inc. (Intelligencer Journal, Lancaster): one system in Pennsylvania

Pencor Services Inc. of Palmerton (The Times News, Lehighton): one system in Pennsylvania

Times Publishing Co. of Erie (Erie Daily Times): one system and 30 percent of a second system in Pennsylvania

Rhode Island

The Providence Journal Co. of Providence—subsidiary Colony Communications Inc.: 14 systems in Florida, Massachusetts, New York, Pennsylvania, Rhode Island and Vermont

South Carolina

Evening Post Publishing Co. of Charleston: one system in South Carolina

Multimedia Inc. of Greenville (The Greenville News)—subsidiary Multimedia Cablevision Co.: 67 systems in Illinois, Kansas, Oklahoma and North Carolina

Texas

A. H. Belo Corp of Dallas (The Dallas Morning News)—subsidiary Belo Broadcasting Corp.: one system in Tennessee

Harte-Hanks Communications Inc. of San Antonio (Corpus Christi [Texas] Times): six systems in Texas and Colorado

Jamar family of Mineral Wells (The Index, Mineral Wells): interest in two systems in Texas and Oklahoma

Utah

The Deseret News Publishing Co. of Salt Lake City—affiliate Deseret Management Corp., whose subsidiary Bonneville International Corp. owns 50 percent of one system in Utah

Kearns-Tribune Corp. of Salt Lake City (The Salt Lake Tribune): 6 percent of Tele-Communications Inc., which has systems in 43 states

The Standard Corp. of Ogden (Ogden Standard-Examiner)—affiliate Communications Investment Corp.: one system in Montana

Virginia

Daily Press Inc. of Newport News: four systems in Virginia

Landmark Communications Inc. of Norfolk (The Virginian-Pilot, Norfolk)—subsidiary Telecable Corp.: 19 systems in Alabama, Georgia, Illinois, Indiana, Kansas, Kentucky, Missouri, North Carolina, South Carolina, Tennessee, Texas, Virginia, West Virginia and Wisconsin

Media General of Richmond (Richmond Times-Dispatch): one system in Virginia

Washington

Longview Publishing Co. of Longview (The Daily News, Longview): 50 percent interest in one system in Washington

Tribune Publishing Co. of Tacoma (The Tacoma News Tribune): one system in Washington

Wisconsin

Post Corp. of Appleton (The Post-Crescent): 20 percent of one system in Wisconsin

Zimmermann & Sons Inc. of Burlington (Burlington Standard Press): one system in Wisconsin

Wyoming

McCraken Newspapers of Cheyenne (The Wyoming Eagle, Cheyenne): majority interest in one system in Wyoming

Lease channel(s) for text

Arizona

The Arizona Republic and The Phoenix Gazette, three channels (news and advertising)

The Yuma Daily Sun, four channels (news and advertising)

Connecticut

The News-Times, Danbury (news and advertising)

Georgia

The Coastal Courier, Hinesville (news)

Illinois

The Metropolis Planet (news and advertising)

Indiana

Times, Frankfort (news and advertising)

Iowa

Marshalltown Times-Republican (news and advertising)

Kentucky

The Mayfield Messenger (news and advertising)

The Ledger & Times, Murray (news and advertising)

Massachusetts

Worcester Telegram & Gazette (news and advertising)

Michigan

Redford Observer (news and advertising)

The Daily Eagle, Wayne (news)

North Carolina

The Monroe Enquirer-Journal, two channels (news and advertising)

Ohio

The Blade, Toledo (news)

Troy Daily News, three channels (news and advertising)

Oklahoma

The Shawnee News-Star (news and advertising)

Texas

The San Antonio Express-News (news)

Wisconsin

Leader-Telegram, Eau Claire (news and advertising)

STAR CABLE
.....MOSTLY CLOUDY AND COOLER
GRAVE'S FLORAL
1525 N. Broadway 273-0777
Granco

Shawnee (Okla.) News-Star has capability of using color slides in cable advertising.

Cable Editor Bob Richter (seated) and Cable News Manager David St. Mary of the San Antonio (Texas) Express-News enter information into cable service using a character generator.

Lease channel for video programming

Georgia

The Herald-Leader, Fitzgerald (one-and-a-half hours of local news and feature programming a day, and advertising)

The Press-Sentinel, Jesup (one hour of local news and feature programming a day, and advertising)

Lease channel(s) for text and video programming

Florida

The Florida Times-Union and Jacksonville Journal (text news and advertising, video gardening and cooking programs, and other specials)

Iowa

Globe-Gazette, Mason City, two channels (text news and advertising, video specials and advertising)

Ottumwa Courier (text news and advertising, video local sports, government and civic specials, and advertising)

New Jersey

Nutley Sun (text advertising, video local news four hours daily and advertising)

New York

The Recorder, Amsterdam (text advertising, video news and special programming, and advertising)

Use channel for text without leasing

Kansas

The Augusta Daily Gazette (news and advertising)

Massachusetts

The Transcript, North Adams (news)

Minnesota

The Hutchinson Leader (advertising)

Nebraska

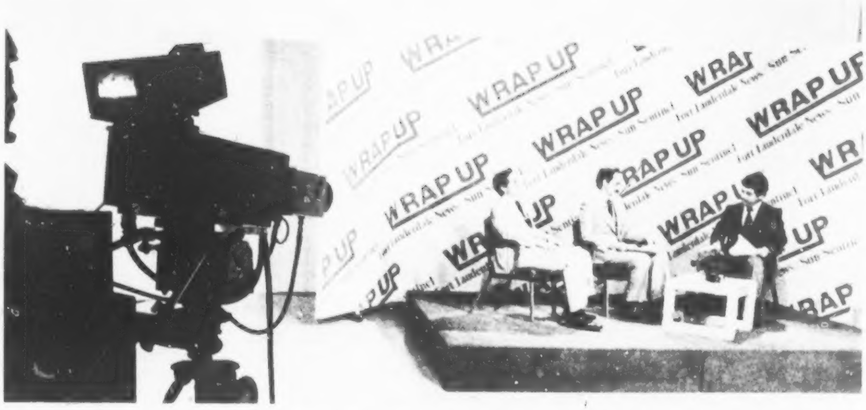
The York News-Times (news)

Texas

Denton Record-Chronicle (news and advertising)

Suburban News, Farmers Branch (news)

Waco Tribune-Herald (news)



Fort Lauderdale (Fla.) News/Sun Sentinel editorial writers Jim Gay (left) and Tom Sander discuss current events with host Tom Griffiths (right) on the papers' weekly cable news program.

Use channel for video programming without leasing

Florida

Fort Lauderdale News and Sun-Sentinel (weekly half hour news program)

Minnesota

Battle Lake Review (local sports, government and civic specials and advertising)

New Jersey

The Courier-News, Bridgewater (daily two-and-a-half minute "newsbreak")

New York

Manlius Group Newspapers, Fayetteville (weekly half hour news program)

From a studio in the newsroom of the Des Moines (Iowa) Register and Tribune, reporter Gerald Szumski anchors local one-minute newscasts inserted each hour on the Cable News Network.

Miscellaneous

Florida

The Breeze, Cape Coral, sponsors Cable News Network and produces advertising and newscasts for two-minutes-per-hour CNN local slot.

Florida Publishing Co. of Jacksonville formed subsidiary, Coastline Communications Inc., to sell advertising on its own systems.

Sentinel Star Co. of Orlando, with American Television & Communications Corp. is planning a market test of an information service over ATC's Orlando cable system using information from the Orlando Sentinel Star; the two-part test will involve interactive service and cable/teletext.

Iowa

Des Moines Register and Tribune Co., in joint venture with cable system owner, produces one minute of local and regional news for Cable News Network local slot.

Kentucky

Courier-Journal and Louisville Times Co. beginning early next year will have one-way text news and advertising over leased channel; at the same time, subsidiary Dissly Research Corp. will conduct cable/teletext project using Antiope technology in vertical blanking interval of the same cable channel.

New York

Dow Jones & Co. Inc. of New York City, beginning this fall will produce Wall Street Journal Report for USA Network, one-way text service. Dow Jones Financial News Service, now available on 13 systems with installation pending for eight more. Dow Jones News/Retrieval Service will be available on two-way cable systems in Fort Lee, N.J., Clearwater, Fla., Fort Worth, Texas, St. Louis County, Mo., Lakewood, Colo., South Pasadena, Calif., and San Marino, Calif., preparing for a second cable/teletext experiment with The News-Times of Danbury, Conn., a member of Dow Jones' Ottaway Newspapers subsidiary.

Gannett Co. Inc. of Rochester, recently joined with Robert MacNeil and Jim Lehrer of public television's MacNeil-Lehrer Report to form a production company that will, among other things, produce cable programming.

Hearst Corp. of New York City, in joint venture with ABC to produce "Daytime," women's cable programming channel, to begin in March, 1982.

Texas

A.H. Belo Corp. of Dallas, conducts videotex project over two-way cable television in Park Cities, Texas, with information from The Dallas Morning News.

Virginia

Landmark Communications Inc. of Norfolk, has announced that in spring, 1982, it will establish a 24-hour, all-weather, cable television network.

Public Law 89-487
89th Congress, S. 1160
July 4, 1966

An Act

To amend section 3 of the Administrative Procedure Act, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes.

FREEDOM OF INFORMATION ACT

PROTECT IT . . .

By Jack C. Landau

Several times over the past decade, the generally contentious and independent-minded news media community in our country has come together to fight back against serious legal threats to our ability to collect and publish news.

Putting aside their differences, the print and broadcast news media, and their reporters, editors and owners, joined forces:

- In 1970 to oppose a flood of Justice Department subpoenas
- In 1973 to oppose the criminal code reform bill, which we labeled the "Official Secrets Act"
- In 1976 to oppose prior restraints on reporting court proceedings
- In 1978 to oppose surprise searches of newsrooms
- In 1979 to oppose closed pretrial and later closed trial proceedings.

Now the time has come to arm the political and legal barricades again—this time over the clear and present danger to the federal Freedom of Information Act, one of the most valuable tools possessed by the press to inform the public about the actions and decision-making processes of the federal government.

The danger to the FOIA is here today.

A powerful coalition has formed, committed to crippling the act and its underlying concept that broad access by the public and the press to government documents is one of the most effective—and in the long run one of the least expensive—methods of conducting oversight of government programs so that a self-governing citizenry can evaluate its leaders.

This coalition is led by the Reagan administration, which has introduced a bill for a wholesale overhaul of the act (see story, p. 10). It is supported by the FBI and other government law enforcement agencies; the CIA and the government intelligence agencies; a number of leading senators and congressmen, including Sen. Orrin G. Hatch (R-Utah), the most influential senator on FOI matters; and a large segment of the private business community.

The administration bill, if passed, would mutilate the FOIA as we know it today by imposing wholesale news censorship on government information. It would authorize more secrecy for law enforcement records, for government officials' memos and notes, for regulatory information, for the details of all government legal settlements, and, on grounds of privacy, for many other government records including information about government contractors, consultants and grantees and maybe about persons arrested and convicted.

In addition, the administration has indicated that it may support a bill introduced by Sen. Alfonse M. D'Amato (R-N.Y.) that would exempt the CIA from all FOIA oversight.

• • •

Why do the Reagan administration and many in Congress and in the private sector support such destruction of the act? Here is what the critics charge and The Reporters Committee for Freedom of the Press answers.

Charge: The act is too expensive. It costs an estimated $50 million per year to process requests.

Fact: The total budget for government public relations propaganda, according to a UPI study, is about $1.25 billion per year. At that rate, the FOIA represents less than 5 percent of the government public relations budget, or, as Ralph Nader quipped, about half of the $100 million the government spends on military bands.

Charge: The FOIA is not used as extensively by the press as it was supposed when the act was passed in 1966. Estimates vary that between 5-10 percent of the users are journalists, authors, scholars and public interest organizations who use the act to inform the public, and the other 90 percent are private corporations or their law firms, seeking to use the act for private commercial reasons.

Fact: It is true that the press and the academic community probably account for only 10 percent of the users. But this is an inaccurate barometer of the act's use. Even Deputy Attorney General Edward C. Schmults has conceded that there are thousands of news stories which have been produced from information voluntarily supplied by government agencies because they knew they had to release it under the FOIA.

Much of the daily flow of information from government to the public comes because the FOIA is there, and no one can estimate its informational impact.

Charge: The act has not been responsible for many news stories of great value.

Fact: The act has been responsible for more than 250 news stories in the past seven years just in national publications such as The Washington Post, The New York Times, The Wall Street Jour-

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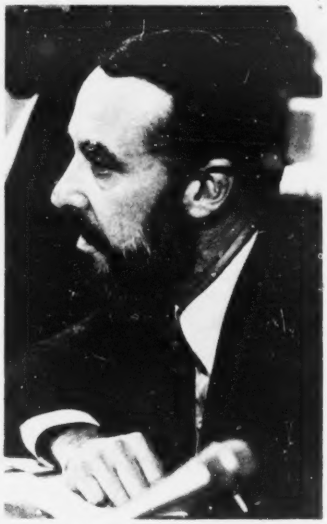
Landau is director of The Reporters Committee for Freedom of the Press.

nal, the Los Angeles Times, Time, Newsweek, etc.

Some of these stories, according to a Library of Congress study, showed: that Nuclear Regulatory Commission employees believed Three Mile Island was a dangerous facility prior to the accident; that former President Nixon tried to cut off public broadcasting funding because of his dislike of two PBS reporters; that Utah residents near atomic bomb testing sites had an unusually high leukemia rate; that the FBI infiltrated domestic political organizations and attempted to disrupt their activities; that a number of American companies maintained slush funds for the purpose of political contributions; and that 2,000 doctors, medical groups and laboratories received Medicare payments of $100,000 or more per year.



Landau testifies on exemptions.

In addition, the act has been responsible for disclosing dangerous tires made by a major manufacturer, dangerous automobile transmissions, dangerous toxic materials added to chemicals and dangerous types of metal wiring and electrical hazards in television sets. This information was obtained by public interest organizations and then made available to the press.

Charge: The act ties up government agencies when personnel could be doing more worthwhile work.

Fact: Certainly the press groups, because they only amount to 10 percent of the total users, don't tie up government agencies. What ties up government agencies are the requests from private businesses and private law firms. The solution is simply to charge them enough to compensate the government for all of its expenses.

Charge: The act jeopardizes law enforcement because it has caused the disclosure of the identity of confidential FBI informants.

Fact: The director of the FBI, Judge William Webster, is not able to point to a single court decision in the 15-year life of the act which required the FBI to disclose the identity of a confidential informant. Webster then says that it is the misperception by informants that the FOIA can be used to unmask them that causes them to avoid the bureau. But why should an invaluable law for informational access be changed because it is misunderstood by the shadowy world of drug pushers, organized gangsters and other informants?

Charge: The act jeopardizes the national security because it forces the disclosure of foreign intelligence informants of the CIA.

Fact: The CIA has an exemption for information properly classified in the interest of national security. In 15 years, no court has ordered the CIA to disclose, over its objections, any information which was properly classified.

Like the FBI, the CIA then cites the misperception of its intelligence informants that their identity will be disclosed by the act.

Charge: The act has been used to disclose trade secrets of business.

Fact: There is an exemption in the FOIA for "trade secrets and commercial or financial information . . . privileged or confidential." The courts have applied this to cover real trade secrets, such as secret formulas or confidential tests or other financial information which would cause substantial competitive harm to a business.

Why does the administration want to keep secret all details of legal settlements entered into by the United States? What is it thinking of doing in terms of settling cases that it does not want the public to know about? And why does the attorney general want the unilateral right to exempt all documents relating to terrorism when it was the disclosure of these documents that showed illegal behavior by the bureau in the past? What does the FBI plan to do in the future that it requires this new secrecy?

The only study we know of that has been done on this exemption is by Professor Russell Stevenson of the National Law Center, George Washington University. He came to the conclusion that the act has been used to reveal real trade secrets in only two instances—and in one of them, the disclosure was the result of the inadvertence of the company that supplied the information.

• • •

The administration and FOIA critics have simply not produced any facts to justify any of their criticism.

One must wonder: Why does the administration want to keep secret all details of legal settlements entered into by the United States? What is it thinking of doing in terms of settling cases that it does not want the public to know about? And one must ponder why the attorney general wants the unilateral right to exempt all documents relating to terrorism when it was the disclosure of these documents that showed illegal behavior by the bureau in the past? What does the FBI plan to do in the future that it requires this new secrecy?

If our government is operating as it should be, then it should want to inform the public as much as possible about its actions and policies in order to gain public understanding and trust.

So, we say, "To the Barricades." Protect the administration from itself. Protect the concept of intelligent self-government. Protect the Freedom of Information Act.

. . . NOW!

Richard M. Schmidt Jr.

Once a sports writer, he's now a champion of the First Amendment

By C. David Rambo
presstime staff writer

Richard M. Schmidt Jr. is one of the most accomplished members of the new breed of media lawyers (see special report, p. 4). But he still remembers the excitement of being a newsman, and sometimes wonders whether he made the right decision in 1949 to leave the front lines of journalism.

"My wife says I'm like an old fire horse that hears the clanging of the bells and wants to run to the scene," he says. "I think that's inherent in anybody who's ever been a reporter. You can't help it."

His many associates in the press would say, however, that it's a good thing he *did* get out of the business. They like him exactly where he is—on the front lines of First Amendment skirmishes.

"He's probably one of the best things that ever happened in the Freedom of Information movement," says long-time friend Sam Archibald, journalism professor at the University of Colorado who was a key congressional staff member when the FOI Act was drafted.

Schmidt, a 57-year-old Kansas native, has served for 13 years as general counsel of the American Society of Newspaper Editors helping to defend and promote press interests before Congress the regulatory agencies and the courts.

A senior partner in the Washington, D.C., law firm of Cohn & Marks, Schmidt has won his share of legal battles on behalf of media clients, too. For example:

- In 1956 he persuaded the Colorado Supreme Court to allow cameras and recording devices into state courtrooms, a nationally unprecedented action.
- In 1974 he was co-counsel for The Miami Herald in *Miami Herald v. Tornillo*, the celebrated case in which the U.S. Supreme Court found a Florida "right of reply" statute governing newspapers was unconstitutional.
- In 1977 he was co-counsel for Oklahoma Publishing Co. in another major Supreme Court case which held as unconstitutional a judge's order preventing the media from publishing the name of a juvenile in a criminal case.

Schmidt traces his dedication to the First Amendment to days as a sports reporter for his hometown paper, The El Dorado (Kan.) Times. "(Publisher) Rolla Clymer used to spin stories about William Allen White," the legendary Kansas newspaperman whom Clymer counted as a friend and associate. "I became rather enthralled."

Schmidt had polio as a child, and when he was in his late teens, he underwent extensive surgery to correct problems caused by the disease. Placed in a body cast following surgery, he moved to Denver in search of a more comfortable summer climate.

He attended the University of Denver where he earned a bachelor's degree in political science and a law degree.

While studying at the university, he worked nights and weekends at a local radio station. His versatility was such that he served as a reporter and play-by-play announcer for football and baseball games, did commercials, and even hosted his own show, "Meet the Boys in the Band," a forum for in-person interviews with such stars as Benny Goodman, Harry James and Spike Jones.

In 1948, the year he finished law school, Schmidt went to work full-time at the radio station—and married one his colleagues there, Ann Downing, now Washington correspondent for The Denver Post.

The following year, he accepted a job as assistant district attorney in Denver, and subsequently went into private practice there representing "a lot of broadcasters and newspaper types."

Richard M. Schmidt Jr.

Although by the late 1950s he was firmly established in professional and civic life in the Rocky Mountain capital, he left in 1959 for a year's stint in Washington, D.C., as counsel for a special Senate subcommittee investigating the grain storage business. He returned to Washington for good in 1965 to become general counsel of the U.S. Information Agency and later to enter private practice.

In 1968 he became ASNE's general counsel, only the third it has had. The job was and is largely a labor of love. "ASNE for years has paid Dick Schmidt either nothing or very little," but "no matter how much we would pay him, it wouldn't be enough," says Charles W. Bailey of the Minneapolis Tribune, a former chairman of the ASNE Freedom of Information Committee.

Clayton Kirkpatrick, formerly of the Chicago Tribune and another one-time ASNE FOI Committee chairman, credits Schmidt with a major role in the organization's growth and in the founding of the ASNE Foundation.

A large, active man, Schmidt tempers his ferocious concern for freedom of the press with a seemingly never-failing sense of humor.

It was never more evident than that day a few years ago when he appeared before a House committee holding hearings on a federal shield law for reporters. An informal survey of ASNE members revealed that "a third wanted an absolute shield law. One third voted for a qualified (law). And one third voted for no shield law," Schmidt recalls. "So I told the committee that that was the position, and I stand full square behind my client's position!"

But to Schmidt, that kind of division is healthy. He says he's often admonished on Capitol Hill, "'You've got to get the press together. They've got to speak as one voice.' But I say, 'That can't be. That's the American press. Aren't you glad they don't speak with one voice and that there's a dichotomy there?'"

Schmidt and his wife live on Capitol Hill. They have a daughter, Heidi, and two sons who are following in dad's footsteps: Eric, who is a television news anchorman in Colorado, and Gregory, who practices media law in Washington. ☐

News research report probes community ties of readers

While previous research has indicated that regular newspaper readers tend to be well-educated, well-paid, homeowning voters, ANPA News Research Report No. 33 offers in-depth analysis of "Community Ties and Newspaper Use."

According to its findings, the basic desire to keep up with what's going on in one's community—defined in the study as the simplest level of community involvement—provides the strongest link to several measures of newspaper use.

The study also found that interest in and identification with a geographic place is more strongly related to newspaper use than involvement with social groups, whether formal or informal.

The two-part report is based on June 1979 telephone interviews with 800 telephone subscribers in the greater Seattle area. Respondents identified themselves by geographic and social communities, rated their level of involvement with those communities, and then reported their use of newspapers and demographic characteristics.

In the first part, "Impact of Community Involvement on Newspaper Use," it was found that people who were both identified and highly involved with the residential community were the most likely to subscribe to several newspapers and to have done so for 10 years or more.

"They were also the most likely to spend more than half an hour with their newspaper. These persons generally had lived in the community 10 years or more, were between 30 and 64 years of age, owned their home and had voted recently," the report stated.

"Newspaper Use and Community Identification," the second part of the report, examined the question of which came first, community involvement or newspaper use. Data indicated that "measures of newspaper use were consistently correlated with place identification, supporting the idea that newspapers play a role in the formation of community identification." Newspapers' role in formal and informal social communities was not as clearly defined.

"These findings undermine those critics who contend that newspapers devote too much coverage to local political affairs. Rather, they suggest leads for sharpening the focus of this coverage so that it better spells out the implications of these events for local readers' psychological identification and involvement with their residential community," the study noted.

Authors of the report are Lisa Fortini-Campbell, a doctoral student in communications at the University of Washington, and Keith R. Stamm, an associate professor of communications and director of the university's Communication Research Center. It was funded by a grant from the ANPA News Research Center at Syracuse University.

Copies of the report are being mailed to ANPA members. Additional copies are available from the ANPA Public Affairs Department at The Newspaper Center in Reston, Va. ☐

Study highlights circulation penetration by state

Connecticut has the highest newspaper circulation-to-household ratio (96.5 percent), Mississippi the lowest (53.1 percent). Newspaper penetration dropped from 1970 to 1980 in every state except Alaska. California has a high per capita income ($10,037) and relatively low newspaper penetration (59.2 percent).

These and other aspects of state-by-state circulation patterns are contained in a new Research Note, "Daily Newspaper Circulation: State by State Patterns and Trends," from the Newspaper Advertising Bureau (see story p. 36).

Other reports issued recently include "Changes in Saturday Editions Among 100 Morning and Evening Combinations: 1970-1980" and "Daily and Sunday Newspaper Readership: 1977-1981."

Research notes are available for 50 cents per copy from NAB, 485 Lexington Ave., New York, N.Y. 10017. ☐

Two NIE programs aid legal education

A Newspaper in Education program contributed to a significant improvement in students' performance on the government-economics section of the Basic Essential Skills Test, according to St. Louis public school officials.

Government-economics was the only section of the annual test in which real improvement occurred, said Ronald Stodghill, deputy superintendent for instruction. In one year, scores rose from 53.1 percent passing to 65.8 percent.

Stodghill attributed the rise to the school system's law-related education program, which has joined forces with the NIE staff of St. Louis Post-Dispatch and Globe-Democrat to develop a course on "Newspapers and Law-Related Education." Now students from the fifth through 12th grades use the newspapers to study everything from sports contracts to vandalism costs to shoplifting statistics.

A teacher's manual for the course is available in camera-ready form for $5. Contact Sandra Diamond, NIE manager of Post-Dispatch and Globe-Democrat.

Another law-related NIE program, this one sponsored by the Chicago Sun-Times, was honored in October.

Sun-Times Publisher James Hoge received a plaque from the Constitutional Rights Foundation for his role in establishing the "Youth and Justice" page in the newspaper's weekly "Viewpoint for Schools" section. The page is written by and for students on legal issues affecting them.

The students' writing has been published as part of a program entitled "Citizens on Assignment," developed by the Sun-Times and the Constitutional Rights Foundation. Camera-ready copies of the curriculum manual for this program are available for $10 each from ANPA Foundation at The Newspaper Center, Reston, Va. ☐

Stars and Stripes forever

Military's hometown daily continues historic march

By Clark Newsom
presstime staff writer

The Stars and Stripes. For many Americans, the name conjures up nothing more than a hazy recollection that during World War II, an Army sergeant named Bill Mauldin pleased the foot soldiers but confounded the brass with his biting cartoons featuring a couple of irreverent and unshaven GIs named Willie and Joe.

But for tens of thousands of U.S. troops and support personnel stationed abroad—and for their families—The Stars and Stripes continues to serve as a daily "hometown" newspaper.

It is published by the Department of Defense, but "Stripes," as it is commonly known, enjoys considerable editorial independence, and has for most of its life.

That life has not been without its troubles. The most severe recent one was in the form of economic difficulties that struck in the mid-1970s.

But Stripes survived, and today—thanks to a big helping hand from the overseas military bookstores that were folded into the operation—it enjoys the security of knowing that so long as there are U.S. forces overseas, there will be a Stars and Stripes newspaper for them to read.

Officials expect Stripes' European operation to show net earnings of nearly $2 million for the fiscal year just ended. The Pacific operation also is making money.

Started during wars. Papers called The Stars and Stripes first appeared during the Civil War, but the newspaper as it now exists traces its ancestry to World War I.

Many of the military men who wrote for the paper during that war went on to fame in U.S. journalism. They included New Yorker magazine founder Harold Ross, critic Alexander Woollcott, newspaper columnist Franklin P. Adams and sports writer Grantland Rice.

Following the armistice, Stripes ceased operating, but it resumed publishing four months after the United States entered World War II. Stripes will celebate the 40th anniversary of its Second World War revival next April 18. Originally a weekly, Stripes went daily on Nov. 2, 1942.

Herbert Mitgang, now cultural correspondent for The New York Times, was an Army correspondent for the Mediterranean Stars and Stripes during World War II. At that time, he says, there were 30 different editions of Stripes published in the Mediterranean and European theaters.

Reagan likely to trim hike in defense funds

Hang 20, you dog!

The STARS and STRIPES

Wrong computer command does the job

Voyager's camera platform fixed

Husband can't ignore his wife's calling

N. Korea fires missile at U.S. spy plane

"As the Army freed each new island or town or country, editors, printers and circulation men rushed into the nearest newspaper plant, occasionally at gunpoint, and took over," he says. "The Mediterranean edition helped to develop such great journalists as Stan (Stanley M.) Swinton (vice president and director of the world services division) of the Associated Press and Jack Foisie, now chief of the Johannesburg Bureau of the Los Angeles Times."

The newspaper began changing its stripes soon after the cessation of hostilities in Europe in May 1945. It developed a civilian news team, while retaining a small number of military personnel. Meanwhile, the Pacific edition was launched in Hawaii, relocating to its present home of Tokyo in October 1945.

Of the current 600 employees of the Darmstadt, West Germany-based European edition, only 21 are military.

In appearance and content, the paper is thoroughly American. "I have to explain to people all the time that Stripes is the same kind of paper you would pick up on your local newsstand, but without the ads," says Sidney Schapiro, Stripes' New York-based editor.

He notes there has always been an emphasis on sports. "We had one page of sports even when we were a four-page paper" in London during World War II, he says, "and when we got more newsprint and grew to eight pages, we had two pages of sports."

The European and Pacific editions operate separately as "non-appropriated fund activities," which means they are revenue-producing and not directly supported by U.S. tax dollars.

Freedom to report. Even though they come under the Department of Defense command structure, the two editions enjoy a great degree of editorial independence—a tradition established by Gen. John J. Pershing during World War I and reaffirmed by Gen. Dwight D. Eisenhower in World War II.

The masthead of the European edition states: "This newspaper is an authorized unofficial publication for U.S. Armed Forces overseas. . . . Contents of The Stars and Stripes are not necessarily the official view of the U.S. government, Department of Defense or the U.S. European Command." Similarly, the Pacific edition states: "An authorized unofficial publication for the personnel of the Department of Defense, other U.S. Government agencies and authorized U.S. personnel within the Pacific Command."

More than a half dozen former "Stripers" contacted by **presstime** verify that, as a general rule, the Pentagon does not censor or manage the news appearing in the two editions. But most can cite an exception or two to that rule.

Jim Colonna, who wrote for the European edition while serving in the Army in 1974-78, says "I don't feel we were handcuffed in any way, and I had no qualms we were burying anything."

Colonna, now assistant sports editor of The Dallas Morning News, could cite only one example of constraint during his tenure at Stripes: Reporters could not cover political news stories in foreign countries, leaving such developments to the wires.

George Eberl, a former California newspaperman and now editor of the Golf Journal in Far Hills, N.J., recalls a number of hard-hitting stories published by the European edition when he worked there, 1964-68 and 1971-79. The stories dealt with:

- Companies selling worthless land in Arizona and Florida to overseas military personnel
- How young GIs in need of money became involved in black market activities in Germany, Italy, Greece, Turkey and England
- Drug and alcohol abuse
- Clothing stores—some run by Americans—ripping off GIs
- Women in the military and their problems with the attitudes of career military men.

Eberl recalls one series he claims saved GIs more than $1 million. It involved the selling of automobile insurance by U.S. companies and explained how Americans could save by insuring with German companies.

Yet the freedom to write was not complete, Eberl says. "It depended on who (the military) editor-in-chief happened to be at the time." Eberl says that in 1974 a series on selling tactics used by U.S. life insurance companies was "shot down in toto." In 1978, a story on military club systems "never saw the light of day," he says.

Ernest Weatherall, who left the New York Herald Tribune in 1956 to spend five years with the European edition as a civilian correspondent, notes "there was a lot of news coming out of Berlin" while he was in the Stripes' bureau there, including erection of the Berlin Wall in 1961. He recalls being instructed not to originate copy on that sensitive situation. "But I did the same stories for United Press International on a free-lance basis, and then they ran in Stripes without my byline," he says.

However, Weatherall's recollections are disputed by George Ridge, a Stripes news editor when the Berlin Wall was erected and now a journalism professor at the University of Arizona in Tucson. "I can't think of any restrictions that were put on us," says Ridge. Nevertheless, he adds, Stripes editors kept the military command advised of what would be appearing in each edition on the tense situation because "the Russians were quoting Stars and Stripes in negotiations."

Ridge, who started at the paper as a GI in 1956 and stayed on as a civilian reporter for about a half-dozen years following his discharge, returned to Stripes in 1974 for a sabbatical year. "The only change between the (11) years was typographical," he says.

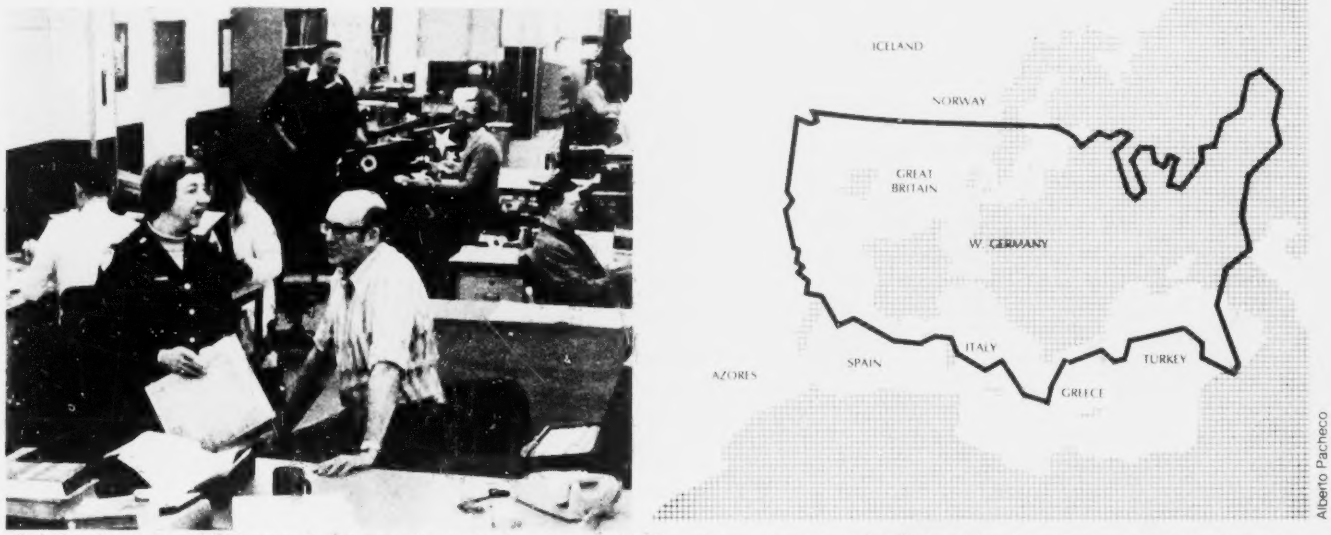
Things have not been so static for the Pacific edition of Stripes however, due largely to the impact of the Vietnam and Korean wars.

Wallace Beene, civilian chief of the Pacific edition's Saigon Bureau between 1965 and 1967, says, "We self-censored. For example, we soon learned not to use the word 'ambush' because American troops do not get ambushed."

Even so, during the Vietnam War, Stripes Pacific earned the nickname of "The Hanoi Herald" among some military brass because it carried articles by syndicated columnists critical of U.S. involvement in the war.

During the Korean War, "We were censored only to the extent that there was a war on," says R.D. "Rikk" Taylor, publisher of The Columbian of New Westminster, British Columbia. A Canadian drafted into the American Army while a student in the United States, Taylor worked the rim for the Pacific edition in 1950-51. At that time, he recalls, only one civilian was employed by Stripes Pacific.

Donald B. Towles, vice president and director of public affairs for The Courier-Journal and The Louisville (Ky.) Times, was a GI reporter-photographer for the Pacific edi-



Alberto Pacheco

Col. Stauber talks with Proctor in Darmstadt newsroom. Map, with U.S. overlay, shows in color Stripes' far-flung European circulation area.

tion during 1952-54. "War news took the top," he says, but Stripes "had the same general balance" as a U.S. paper.

He remembers covering the first trial of an American soldier in the Japanese court system, involving a soldier accused of running over and killing a bicycle-riding Japanese policeman. Towles, who is president of the International Newspaper Promotion Association, started Stripes' Okinawa Bureau before leaving the service.

Stripes today. Nowadays, the European edition is a 28-page morning tabloid Monday through Saturday, with 40 pages on Sunday. Single copies cost 15 cents weekdays and Sunday.

Circulation, after dipping to 98,400 in 1975, has rebounded and currently is about 110,000. Copies are circulated at U.S. military installations throughout Europe, the United Kingdom, the Middle East and the Azores (see map, p. 31). Home delivery by independent contractors is available in most government housing areas for $4.50 a month.

Mert Proctor, a civilian who since 1968 has been managing editor, says he has no difficulty recruiting, "with 100 applicants for each reporter vacancy" on his 95-person staff, which includes a handful of paste-up employees.

When hiring, he looks for someone with a bachelor's degree who has spent three years on a small daily and moved on to a large daily for about a year.

Editorial employees are assigned to one of six government pay grades—beginning at $19,477, with the top grade ranging from $39,689 to $51,596.

Larry Allison, editor of the Long Beach (Calif.) Independent and Press-Telegram, says that in 1961 he tried to get a job at the International Herald Tribune in Paris, but there was no opening. He then went to Stripes' headquarters in Darmstadt and signed on as a copy editor at more than twice what they were paying at the Herald Trib.

"Fringe" benefits for Stripes staffers include shopping at the military commissaries and an annual, tax-free housing allowance of about $5,000. Stripes also has its own retirement, hospital and medical plans.

The newspaper has bureaus in four other West German cities plus one in Washington—"the overseas bureau."

> ***"Stripes" does not have editorials but does carry a variety of signed columns and cartoons balanced between liberal and conservative views. The balancing is reviewed every six months by a six-person editorial advisory committee.***

Proctor, who doesn't use the term "investigative reporting," has what he calls a "special projects" team of three reporters. The newspaper recently broke a story about the arrest of 49 American soldiers on drug-related charges.

A recent issue is typical of Stripes' fare. It carried staff-written feature stories about problems in a housing project occupied by military families in Heidelberg, and the experiences of an operating room nurse at the Army's 2nd General Hospital in Landstuhl, West Germany.

Abundant U.S. and international news from the Associated Press and United Press International also was published. Sports news took up six pages.

There were two pages of comics, with blank spaces for Apartment 3-G, Doonesbury and Tank McNamara because of a delay in the mail.

A recent readership survey revealed that letters to the editor, followed by Ann Landers, are the most popular features.

Stripes does not have editorials but does carry a variety of signed columns and cartoons balanced between liberal and conservative views. The balancing is reviewed every six months by a six-person editorial advisory committee comprised of the public affairs officer for the unified command (embracing the different service branches), the public affairs officers for the Air Force, Army and Navy, the editor-in-chief and the managing editor.

The Pacific edition is a much smaller operation, but that was not always the case. In 1969, during the height of the U.S. military buildup in Indochina, circulation reached more than 242,000, compared to about 40,000 today (at 25 cents a copy).

The Tokyo-based paper has a news staff of about 45, including paste-up workers. It employs about 130 Japanese citizens.

The content is similar in type to that of the European edition with the exception of regional reports. The size is also similar, running 24 or 28 pages a day.

Stripes Pacific has circulation offices in Singapore, Malaysia, Hong Kong, Korea, Okinawa, the Philippines and Guam.

Finances. Stars and Stripes is a self-sustaining operation and does not use tax money. While the overall Stripes' operation is in the black, the papers by themselves are losing money.

To offset newspaper losses, Stripes in Europe has a profitable bookstore and newsstand operation. It sells publications to U.S. forces through more than 200 on-post bookstores, where the clerks work on a commission basis and are not regular employees. A job-printing operation at the Darmstadt plant provides additional revenue.

In fiscal year 1980, the European edition lost $4.8 million. The bookstores, however, grossed $30 million. And overall, Stripes' operations had net earnings of nearly $200,000.

The Pacific edition has not had the benefit of a large bookstore operation, but there are plans to add 18 bookstores to the half dozen now operated.

A large portion of expenses for supplies and salaries is paid in the currency of the host nation, so Stripes' financial fortunes depend heavily on international monetary exchange rates.

From an all-time low of about 1.7 Deutsche marks in fiscal year 1980, the dollar has risen to about 2.24 marks, and Army Col. Rose Stauber, the current editor-in-chief, predicts overall net earnings of from $1.7 to 1.9 million in fiscal 1981.

The declining value of the dollar versus the Japanese yen, coupled with the withdrawal of U.S. forces from Southeast Asia following the Vietnam War, caused severe financial problems for the Pacific edition in the mid-1970s.

The Pacific edition edged back into the black in FY 79, and in FY 80 it recorded a $440,673 profit, according to the Pentagon. Most of that profit, however, resulted from a Japanese government subsidy to U.S. employers of Japanese citizens for providing fringe benefits.

In addition to such direct benefits,

Stripes is indirectly subsidized in several ways.

For example, for the European edition, newsprint from Maine is shipped on military vessels; business postage is paid by the government; and, as mentioned above, some active-duty military personnel (who often wear "civvies" on the job) are on the staff. But these subsidies amount to less than 5 percent of total operating expenses.

The advertising issue. The financial situation of both editions in the mid- to late-'70s prompted DOD to propose to Congress that Stripes be allowed to accept—for a one-year test period—paid, ROP advertising, a revenue source prohibited by its own policies and guidelines which state, "No Armed Forces newspaper may contain commercial advertisements inserted by or on behalf of any private individual, firm or corporation."

The DOD "instruction," dated March 15, 1973, goes on to state that such newspapers "may not contain any material which implies that the DOD, or any DOD component, endorses or favors a specific commercial product, commodity or service."

ANPA informed the Senate Joint Committee on Printing, which was considering the request, that the Association traditionally has opposed placing government publications in direct competition for advertising with free-enterprise newspapers.

Early in 1979, the committee denied the department's request, concluding that relaxation of restrictions on ROP advertising in a government publication would be contrary to the public interest.

The committee, however, did approve certain insert advertising on behalf of such concerns as federal credit unions and DOD-supervised banks.

Stripes has no direct competitor, but if the paper were permitted to carry ROP advertising, there would possibly be an adverse effect on some publications, notably the International Herald Tribune and the publications of the Army Times Publishing Co.

The Paris-based International Herald Tribune has a European circulation of 111,412, out of a worldwide circulation of more than 140,000.

The European, Pacific and U.S. editions of Army Times, Navy Times and Air Force Times had an average paid combined weekly circulation for the six months ended Dec. 31, 1980 of 303,925, with 24,557 of that in Europe and 6,823 in the Pacific.

Incidentally, some of the circulation of the Herald Trib and the Army Times publications consists of single-copy sales at Stripes bookstores.

So, Stars and Stripes, like the caissons in the Army anthem, keeps rolling along. Is it still serving its purpose?

"Absolutely," says recently retired Gen. George S. Blanchard, former commanding general, U.S. Army Europe. "It's one of the few items that everybody reads." Blanchard says Stripes is "tremendously important" to morale and "is doing a good job in bringing the troops up to date on what's going on and getting the word out." ☐

First Amendment Congress chronicled

A booklet has been published chronicling the founding of the First Amendment Congress, its initial meetings in Philadelphia and Williamsburg, Va., and its long-range goals [**presstime**, April 1980, p. 24].

The 68-page report is being distributed to federal lawmakers, federal agencies, state government officials, leaders of selected national organizations, educators, the media and delegates to the congress.

Copies are available from ANPA Foundation at The Newspaper Center, Reston, Va. Cost is $5 each for orders up to five copies; $3 each for larger orders. Checks should be made payable to "First Amendment Congress."

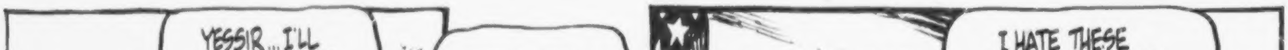
Another booklet, this one describing ways to increase public understanding of the media, has been distributed to 13,000 people since its availability was announced in June [**presstime**, July, p. 39].

The 20-page booklet was developed as part of the "Media/Citizens Dialogue Program" sponsored by the congress and Rexnord Inc., an industrial goods company.

Rexnord will provide up to 100 copies free of charge. Orders of more than 100 cost 50 cents a copy. For more information, contact Carol Jean Erwin, Rexnord Inc., 200 Executive Dr., Brookfield Square, Brookfield, Wis. 53005; (414) 784-5000. ☐

'Shoe'

By Jeff MacNelly


YESSIR... I'LL BE RIGHT THERE.
GRUMBLE...
I HATE THESE EDITORIAL MEETINGS.
Jefferson Communications, Inc 1981
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MACNELLY 9/11

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Papers come to aid of LA Times in FTC ad case

By Margaret Genovese
presstime staff writer

After four years of watching with concern as the Federal Trade Commission pursued its complaint against the Los Angeles Times' practice of offering volume discounts for retail advertising, newspapers have a chance to be heard on the issue.

And it appears many are going to take the opportunity.

In the wake of the commission's Sept. 23 tentative adoption of a consent agreement in the case [**presstime,** Oct. 1981, p. 34] the Times is appealing to newspapers for support in its effort to get the complaint dismissed. And the FTC is seeking specific information concerning the impact of the agreement on newspapers.

The 60-day public-comment period on the agreement ends Nov. 30. Already three newspapers have submitted comments and several others have announced that they will. ANPA and the Newspaper Advertising Bureau also will submit comments urging the FTC to dismiss the complaint.

The FTC alleged in 1977 that the Times' discounts for large-volume retail advertisers discriminate against smaller advertisers.

The tentative consent agreement was signed Nov. 3, 1980, by lawyers for the FTC and by The Times Mirror Co., the newspaper's parent company. Under that agreement, which applies only to the Times, the newspaper could continue to use volume discounts but would, under its present discount structure, have to limit the maximum discount it can give large-volume advertisers to 26.765 percent. Any other discount structure would have to be based on cost.

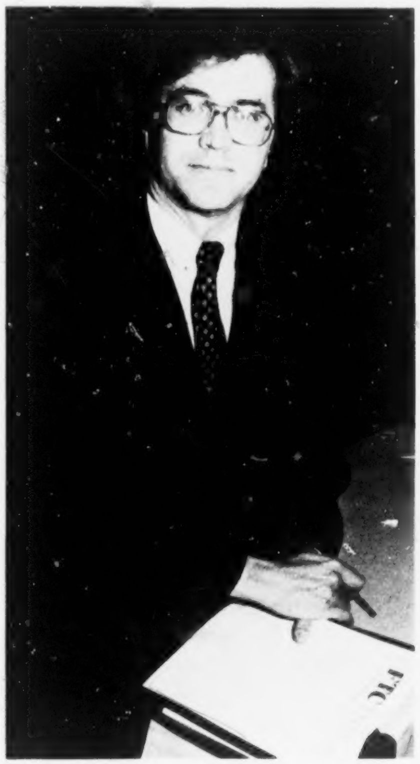
Times Publisher and Chief Executive Officer Tom Johnson announced Sept. 25 that the newspaper will "argue vigorously" for dismissal of the complaint (dismissal would render the settlement moot).

Times have changed. Signing of the agreement last year occurred one day before the presidential election that swept Ronald Reagan into office. In explaining why less than a year after its lawyers signed the agreement the newspaper now is seeking to have the original complaint dismissed, Johnson said "the Times negotiated the consent agreement when market conditions and the regulatory environment were distinctly different from those of today."

Changes in the market, he said, include lower third-class postal rates which threaten to take some pre-printed ad supplements from newspapers, announcement of several tests of electronic home information systems, and introduction of a variety of major discount programs by other newspapers and other media in the Southern California market.

"The regulatory environment has changed as well," Johnson said. "Policy statements have been issued by the FTC transition task force (during the transfer-of-power period) as well as by others within the administration which indicate a new approach to regulatory reform."

The Times' advertising rates are "quite pro-competitive," he said. "We believe the public interest would be served by closing this case. No competitive injury has been established, and we feel that both our advertisers and our readers benefit from the free market competition which exists in our market and in our industry."



Times' Johnson examines FTC documents.

Commissioners' questions. The FTC Sept. 25 released the text of the settlement and directed particular attention to the following three questions the commission hopes will be addressed during the public comment period:

- "How and to what extent will this order enhance the ability of smaller retailers to compete with larger retailers in Southern California?"
- "What effect will this order have on the ability of newspapers to compete in the sale of advertising?"
- "What should be the commission's enforcement policies in the future with respect to the principles expressed in this order and what competitive effects—including effects on the Times—may flow from these policies?"

Carlton C. Eastlake, FTC attorney in Los Angeles and one of three federal attorneys who signed the consent agreement, said it is "not that common" for the commission to seek answers to specific questions in a consent agreement case.

"I think that in doing so in this case the commission really is very seriously trying to generate comment from everybody that would be affected—from newspapers, from retailers, from academic experts," Eastlake said. "I think they are quite sincerely interested in getting that dialogue."

When asked whether the commission expects to use the Times case to establish a standard for the newspaper business, the agency attorney said only that he thinks the commission "has an open mind on that."

The Times' Johnson was more definite. He believes the case "will be used as a pattern for acceptable rate structures for the newspaper business as a whole," and, therefore, newspapers should support the the Times' effort to have the complaint dismissed.

Robert C. Lobdell, the newspaper's vice

president and general counsel, will discuss the case at a special session of the Practising Law Institute's Communications Law Institute at 8:30 a.m. Nov. 20 in the New York Statler, New York City.

Reaction thus far. By late October, although newspapers' legal staffs were continuing to review the lengthy consent agreement, several companies said they intended to file comments. These included Newhouse Newspapers, Gannett Co. Inc. and The Washington Post.

Three newspapers whose comments already had been sent to the FTC focused on the effect limiting volume discounts would have on their ability to compete generally.

George D. Lanier, president and publisher of The Herald of Sharon, Pa., said "retention of the complaint would strike a devastating blow to newspapers the size of The Herald (circulation 27,000). Not only are we faced by the competition of free shoppers, direct mail and other local publications, but we now must compete aggressively with metropolitan radio and television outlets that increasingly are penetrating small-town markets like ours."

Evert B. Person, president and publisher of The Press Democrat in Santa Rosa, Calif., said the competitive climate in his market will escalate during the next 10 years, and the competitive battle for retail advertising is projected to increase considerably. His newspaper's future pricing of advertising will have to meet this competitive challenge, he said, "or our very survival could well be jeopardized."

Edwin L. Heminger, editor and publisher of The Courier in Findlay, Ohio, said the "pricing of newspaper advertising is a result of multitudinous pressures of the marketplace, pure and simple. To impose a fixed index of rates on a single medium is simply counterproductive and could do great harm."

Francis L. Dale, publisher of the Los Angeles Herald Examiner, took another tack in opposing the settlement. His newspaper ranks second in circulation to the Times in the Los Angeles market. "When the dominant newspaper is given a price increase, it soaks up dollars from the market and advertisers tend to pay the price increase and take the money away from the number two paper," he said. "We could be hurt tremendously by this act."

Dale says he believes that if the agreement is adopted, it "will have an effect on all number two newspapers in the country." He said his paper "probably" will file comments.

Executives of the Times' two other primary newspaper competitors—J. Scott Schmidt, president and publisher of the Daily News in Van Nuys and D. R. Segal, president of Freedom Newspapers, publisher of The Register in Santa Ana—both said they would file comments advocating dismissal.

"As a matter of principle, we think that any time government enters the marketplace it destroys the free market and makes it impossible to determine the real value of any goods and services," Segal noted.

The Times also is getting support from another competitor—broadcasters. The Executive Committee of the National Association of Broadcasters Oct. 21 authorized comments to be filed with the FTC seeking dismissal of the complaint.

FEDERAL·TRADE·COMMISSION★UNITED·STATES·OF·AMERICA
★MCMXV★

Timetable. An analysis of the comments is to be completed by the FTC's Los Angeles office within 30 days from the end of the comment period, although commission staff says the time limit can vary depending on the volume of comments and the complexity of the case.

The commission, essentially, will then have three options:

- Accept the consent agreement and issue it as a final order
- Dismiss the case
- Reject the consent agreement and either return the case to an administrative law judge for trial or to the staff for modification.

When the case returns to the commission for that decision, there will be at least one new member on hand. James C. Miller III was sworn in as new FTC chairman one week after the consent agreement was tentatively adopted. Miller replaced Paul Rand Dixon, who was among the majority in the 3-1 decision to issue the agreement. (Both are Republicans.)

Another Reagan selection for the FTC, Washington attorney F. Keith Adkinson, was still undergoing background clearance in late October, and his nomination had not yet reached the Senate for confirmation. Adkinson would replace Robert Pitofsky, who resigned earlier this year, prior to the commission's consideration of the Times case. (Both are Democrats.)

Remaining on the commission are Patricia P. Bailey (Republican) and Michael Pertschuk (Democrat), who voted with the majority; and David A. Clanton (Republican), who cast the lone dissenting vote. In doing so, Clanton said that in light of recent precedents, it is unclear to him that Section 5 of the Federal Trade Commission Act should be extended to cover the newspaper's practices. The original complaint alleged violations of Section 5 of the FTC Act and Section 2 (a) of the Robinson-Patman Act. The Robinson-Patman Act charge subsequently was dropped by the commission.

FTC top-level staff also has been overhauled since the agreement was accepted. Thomas J. Campbell, a lawyer and economist who worked in the Reagan administration's Justice Department, was named by Miller to head the Bureau of Competition. ☐

Ad expenditures rise in first 8 months of '81

Expenditures for daily newspaper advertising totaled $11.322 billion in the first eight months of this year—16.4 percent above the figure for the same period in 1980, according to estimates by the Newspaper Advertising Bureau.

Compared to August 1980, August 1981 ad expenditures in daily newspapers were up 18.7 percent for national, to $203.8 million; 13.5 percent for retail, to $854.2 million; and 14.8 percent for classified, to $475 million.

NAB's estimates are based on measurements by Media Records Inc. in 64 index cities and other data. ☐

'Scoreboard' tallies 100 papers

Camel Scoreboard, featuring agate-line sports scores within a cigarette ad, will begin appearing in a few newspapers before the end of the year, according to a spokesman for R.J. Reynolds Industries Inc.

About 100 newspapers in all will be offered long-term, weekly advertising contracts, with most of the ads to begin in 1982.

Nat Walker, Reynolds Industries' public affairs manager for print media, said "more than half" of the 600 newspapers surveyed last summer indicated willingness to carry the controversial scoreboard [**presstime**, Sept. 1981, p. 28].

Some editors and publishers maintain that sponsorship of sports scores is an unacceptable infringement of advertising into editorial matters. Others defend the ad on grounds that it will allow them to offer a reader service they could not otherwise provide.

Reynolds will not pay for all the space taken up by the scoreboard, in which the scores will be framed by a border resembling a package of Camel Light cigarettes. Walker said he did not know how much of the space will be paid for because of possible variance from newspaper to newspaper.

A few newspapers tried to negotiate some compromise on the ad, but Walker said that for now only the original Camel Scoreboard design is being offered.

He said the Scoreboard will not replace other newspaper advertising by Reynolds, which was the top newspaper advertiser in the United States last year (see chart below).

Meanwhile, the Camel Scoreboard has drawn at least one imitator. The Elkhart (Ind.) Truth adapted the idea to its daily weather report, which is now part of an ad for the First National Bank of Elkhart.

Publisher Anthony H. Biggs also had agreed to run Camel Scoreboard, but, ironically, the Truth was not chosen for a contract. ☐

Top 25 U.S. newspaper advertisers (1980)

Advertiser	Rank among newspaper advertisers	Rank among 100 top national advertisers	Ad expenditures in newspapers 1980	Ad expenditures in newspapers 1979	Ad expenditures in all media 1980
R.J. Reynolds Industries	1	7	$113,099,600	$87,991,600	$298,524,100
Philip Morris Inc	2	4	77,624,200	59,702,500	364,594,700
General Motors	3	6	52,209,100	69,870,600	316,000,000
Loews Corp	4	39	45,624,400	53,664,800	132,785,200
RCA Corp	5	27	25,122,100	2,644,600	164,328,300
Ford Motor Co	6	8	24,379,500	32,328,800	280,000,000
Chrysler Corp	7	32	21,320,600	22,765,300	150,300,000
Delta Air Lines	8	96	20,409,900	18,117,000	38,700,000
Eastern Air Lines	9	80	20,160,700	12,568,300	54,100,000
American Telephone & Telegraph	10	9	19,180,900	14,951,400	259,170,000
Seagram Co	11	30	18,042,600	16,820,800	152,000,000
Trans World Corp	12	53	17,546,100	11,005,200	88,975,000
American Airlines	13	89	17,477,600	12,878,400	46,315,720
American Brands	14	56	16,816,500	21,102,400	85,598,900
United Air Lines	15	75	16,245,200	13,315,500	60,164,100
CBS	16	40	14,969,100	13,676,400	132,372,000
Pan American World Airways	17	*	13,902,300	5,152,000	
B.A.T. Industries	18	50	13,644,800	25,333,100	95,757,000
General Electric Co	19	29	12,128,400	9,130,200	156,196,300
American Broadcasting Co	20	88	11,899,800	10,891,700	46,764,600
Time Inc	21	37	10,901,200	6,273,400	141,851,000
General Foods Corp	22	3	9,712,700	9,904,100	410,000,000
Franklin Mint Inc	23	*	8,749,200	6,988,100	
Procter & Gamble	24	1	7,976,000	10,030,800	649,624,200
U.S. Government	25	24	7,287,200	2,979,300	172,964,514

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*Not ranked among the top 100 national advertisers.

New NAB report tells papers about CPM measurement

Advertising personnel and newspaper executives should become familiar with cost-per-thousand advertising measurements as a way of explaining costs to advertisers and of responding to what competitors may be saying about newspapers.

That's the advice of the Newspaper Advertising Bureau, which has made an explanation of the CPM concept the subject of its first Research Note, an 11-page report by Charles Lehman, NAB vice president and manager of survey research.

"On a national level, CPMs are among the most important of all criteria for advertisers and agencies," the report says. "Each year, thousands of media buying decisions involving billions of dollars are made largely on the basis of CPMs, even though some of the statistical computations used may depend on questionable assumptions about the equivalence of print media units (space) and broadcast units (time)."

Lehman points out that a newspaper's CPM can be computed two ways: cost per thousand copies or per thousand readers. National data indicate that the average newspaper is read by 2.179 adults, so a cost-per-thousand readers will be substantially lower than the cost-per-thousand copies.

For example, an NAB survey of newspaper rates in 1980 found that for one over-500,000 circulation newspaper, the CPM of a 1,000-line ad per thousand copies was $8.06. Calculated per thousand readers, the CPM was $3.75.

Lehman says that an NAB study of rates as reported to Standard Rate and Data Service revealed smaller-circulation newspapers often have higher CPMs (regardless of how measured) than larger ones. Small changes in circulation or ad rates can make noticable changes in the CPM, the study also showed.

Copies of "Watch Your P's, Q's and CPM's!" and other research notes are available to daily newspapers for 50 cents per copy from NAB, 485 *Lexington Ave.*, New York, N.Y. 10017. ☐

College degree to be offered in circulation management

Students may begin enrolling in the first undergraduate college degree program in newspaper circulation management as early as January 1982.

A tentative curriculum has been approved by advisors to the degree-developing project currently being coordinated by New York's Empire State College of the State University of New York [**presstime,** March 1981, p. 36].

The International Circulation Managers Association Board of Directors recently voted to give the project $10,000 per year for the next three years. ICMA previously had donated $9,000 to the project.

Regional circulation associations are contributing to the program, and funding is being sought from newspaper foundations, newspapers and equipment suppliers. Empire State College will contribute $126,000. About $400,000 is needed to implement the program over the next three years. After that, fees and tuition will cover most costs, project leaders said.

While fund raising goes on, study materials are being developed. "Materials are either non-existent or not appropriate," explained Scott Chisholm, project director. "Much of what is available is 30 years old and does not address the changing technology."

The circulation management degree will be offered through Empire State's School of Business. "We're trying to build a standard, basic business program with a strong component of circulation management," Chisholm explained.

In the past, he noted, circulation executives tended to rely on experience and on-the-job training rather than standard business concepts and procedures. But static circulation and increased competition have prompted circulation managers to move more into marketing and other new areas, and this changing role requires a change in attitude and lifestyle, he said.

Empire State's proposed program would include an annual Circulation Management Institute that would be staffed by experts from the newspaper business as well as academics. It could award up to 10 credit hours, and students in the degree program as well as non-students from the circulation field could attend.

"The program won't be ivory tower, pie-in-the-sky," Chisholm said. "Working circulators are street-wise people. We want them to participate in the teaching experience."

The project has determined the most likely candidates for a circulation degree are people already employed in the field. It is not an area, he said, that appeals mightily to students just out of high school. A recent survey found the typical journalism undergraduate currently is exposed to newspaper circulation for 8.8 hours during college.

Empire State describes itself as "the national leader in alternative, nontraditional education." There is no formal classroom instruction. Students study individually tailored courses on their own, take occasional tests and have periodic consultations with faculty members either by mail or at one of the state university system learning centers.

Courses are open to students from around the world. Most complete degree requirements while working full-time. □

ABC seeks to define 'separate editions'

When is a separate edition of a newspaper a completely different newspaper?

If the Metro Daily Bugle also publishes a Suburban Daily Bugle, should its circulation be counted with the downtown newspaper or broken out?

These and other thorny questions currently plaguing the Audit Bureau of Circulations may lead to a rules change following the ABC's 67th conference and annual meeting Nov. 3-5 in Chicago.

A special committee has been studying Article C 1.4, titled "Separate Editions," in the bureau's rules book. The article states:

"When a newspaper identifies the city, or cities of publication on the front page, all editions should identify the same city, or cities, of publication in the front page logo or running date line of the front page.

"The name and type style in the front page logotype may vary for different editions provided the basic identity of the newspaper is maintained and the running date line on the front page is the same in each edition."

Determining whether the newspaper's "basic identity" is intact currently is left to "the opinion of the managing director" of ABC. Last June, the board announced an interpretation requiring that "the nameplate of the ABC member newspaper must dominate in the identification of all editions."

Retiring President and Managing Director Alan T. Wolcott said in October, however, that further guidelines are needed. As more and more metro dailies try to localize their news to compete with suburban newspapers, complaints about newspapers that change their names to match the location of each edition are rising, Wolcott said. The bureau wants to amend the separate editions rules to clearly specify when an edition becomes a separate newspaper—and thus needs a separate ABC membership.

The bureau's Newspaper Committee is expected to hear the special committee's report on the issue Nov. 5, and then make a recommendation to the board Nov. 6.

If amended rules are approved unanimously by the board, they will take effect immediately. Otherwise, the proposal will be carried forward to the board's next meeting, in February.

Also under discussion in Chicago will be the possibility of reporting households as well as circulation in audit reports by ZIP Code areas [**presstime,** Oct. 1980, p. 36], and the pros and cons of converting from p.m. to a.m. publication.

The annual meeting will come one month after ABC raised its dues and service charges 20 percent.

The increase was necessitated by a deficit of approximately $397,000 for the fiscal year that ended Aug. 31. The ABC Board of Directors approved the increase—the first since 1978—at a meeting in September.

The ABC Annual Report, with details of 1981 revenue and expenses, will be mailed to members early this month. □

Papers seek a foolproof system for color work

By Alan Janesch
presstime technical writer

With newsprint, you don't get the kind of high-gloss color you might see in the centerfold of a men's magazine. But when a newspaper wants high-quality, process-color work, or when an advertiser wants to know how his color ad is going to turn out in advance of publication, quick, reliable color proofs are in order.

3M claims the first system designed for newsprint.

Not too many years ago, the only way to proof color work was to make plates and prepare paper proofs, either on a proof press or the production press. It was costly and time-consuming, especially for newspapers.

So companies began to develop alternate proofing systems to save money and time by bypassing the plate-making and press steps.

Generally, the process involves exposing a photosensitive material to the color separations on a standard vacuum frame or platemaker and then developing it to produce process colors in proof form.

These systems allow registration, color balance, color breaks, stripping errors, and values of tone and tint to be checked before a plate is made.

There are two basic approaches for creating such proofs—the overlay system and the single-sheet system.

In overlay systems, in which a separate sheet is used for each color, camera room and pressroom personnel can see the dots, interpret them and decide how to get the desired result.

With single-sheet systems, the four colors are placed successively on a single base sheet. Background discoloration is minimized or eliminated, and if proof colors match inks in hue and density, it will look very much like what the press will produce.

However, a pre-press proofing system cannot match precisely what will come off the press. Inks or dyes used in these systems do not exactly duplicate ANPA-certified inks, according to production people interviewed by **presstime**.

Some come close. But often the proof will be much better than the end product.

At some point, however, somebody has to decide that the color is good enough. This is where pre-press proofs are valuable. They provide a consistent goal to shoot for.

Main competitors. Although at least nine companies have products in this area, the two principal competitors for business from newspapers seem to be 3M and Azoplate, a division of American Hoechst Corp.

Both 3M's Color Key for Newsprint and Azoplate's Naps are overlay systems. Both are used to proof the negative separations of full-color jobs, although both also offer positive-acting systems. Both use polyester-based films. Proofing material from both firms is exposed, sheet by sheet, to its proper separation negative. Both companies offer automatic processors.

But Azoplate uses a water-based developer, and 3M, alcohol-and-water.

The Houston Post (morning, circulation 347,921) switched from 3M to Azoplate because of fumes and cost. At the Detroit Free Press (morning, 613,311), complaints about fumes ceased when the 3M processor was vented.

In both systems, following processing, the sheets are overlaid in register for viewing the proof.

3M's imaging material has been around since 1960, but in 1979, the company came out with what it heralded as the first proofing system designed specifically for newsprint.

The stable ink pigments are precision-coated on clear polyester to closely match conventional densities, and the top sheet (cyan or black) has a special anti-gloss coating to resemble a newspaper's no-glare finish, the company reports.

Some newspapers say they back up the proof with newsprint, although one says doing that makes no appreciable difference. Others report that pressmen don't like the anti-gloss coating and use the regular glossy sheets.

3M's colors for newsprint are anti-gloss black, anti-gloss cyan, cyan, yellow and magenta. In all, there are 50 varieties of hues, including 32 flat and process Pantone hues.

Newspapers contacted by **presstime** generally report that 3M's system is fast, reliable, inexpensive when compared with some of the other available systems, straightforward and accurate. Making a complete proof takes about 10 to 15 minutes if the automatic processor is used, they report. Taking into account variables such as intensity and distance of the light source and size of the proof, using the automatic processor will generally cut proof-making time in half, 3M says.

At the Dallas Times Herald (all-day, 249,690), where an average of 25 color separations are made a week, a handmade set of separation full-page proofs costs about $19 in materials. Produced with the automatic processor, the same proofs cost about $12.

While drawing high marks from most newspapers, the 3M Color Key system gets only "mixed" reviews from employees at the Nashville (Tenn.) Banner and The Tennessean, according to Donald McGahan, assistant director of operations.

3M's recommended prices are $1.30 per 10-by-12-inch sheet, $3.50 per 16-by-20-inch sheet and $4.90 per 20-by-24-inch sheet. If a minimum of 300 are bought at once, the 10-by-12s are $1.10 a sheet, and the 16-by-20s, $3 a sheet; 100 sheets of 20-by-24s go for $4.15 a sheet.

Some pre-press proofs come close to matching what will come off the press. But often the proof will be better than the end product. At some point, however, somebody has to decide that the color is good enough.

Azoplate's Naps system uses clear sheets of .003-inch polyester—factory-coated with a pre-sensitized colored emulsion in any one of the process or supplementary colors. Films are available in magenta, yellow, cyan and black. Supplementary colors are red, green, blue, brown, orange and opaque white.

The Buffalo (N.Y.) Evening News (circulation 268,928) switched from the 3M Color Key to Naps about three years ago, mainly because the latter, at $4 a full-page sheet, was cheaper.

"I was interested (in Azoplate) as long as I didn't lose the (3M) quality," says Joseph C. Valentine, superintendent of engraving and platemaking, "and I didn't lose the quality."

Azoplate is introducing a new automatic processor which can process a set of four 25-by-38-inch proofs in about seven minutes, the company says. It also uses the same developer for both negative and positive films.

The rest of the field. Other systems are Chrome-Guide™, from Polychrome Corp.; Kwik-Proof, from Direct Reproduction Co.; Cromalin, from E.I. DuPont de Nemours Co. Inc.; Final Proof, from American Photographics Corp.; Spectra Color Proofing System™, from Keuffel & Esser Co.; Instaproof, from Consolidated International Corp.; and Gevaproof, from Agfa Gevaert.

Chrome-Guide. An overlay system, Chrome-Guide is negative- or positive-working; exposed on a standard exposure unit; developed by applying a water-based, odorless developer; and is rinsed and dried before viewing.

A Polychrome spokesman says about 60 weekly newspapers use Chrome-Guide materials, but the company does not release names of users. Polychrome is introducing an automatic processor soon and is increasing the proofing material's thickness from .002 inches to .003 inches.

Packages of 25 sheets, 10-by-12 inches, sell for $24.65; 11-by-14 inches, $31.66; 14-by-17 inches, $50.57; 16-by-20 inches, $53.75; 20-by-24 inches, $56.26; and 25-by-38 inches, $115.07.

Kwik-Proof. Direct Reproduction Corp. says its system involves a four-step process of pouring the color emulsions on a Kwik-Proof sheet, spreading the color and buffing it dry, exposing the sheet to the negative, repeating the process for the remaining colors and washing the sheet. The proofs are made on a matte sheet.

A number of lithographers use Kwik-Proof, but the company said it did not know what newspapers are using the system.

Materials cost of a 27-by-37¼-inch, four-color, single-sheet proof is $8, and the time needed is half an hour, the company says. Kwik-Proof sheets cost $1.70 a 15-by-18-inch, one-sided sheet; $2.80, an 18-by-25; $3.35, a 20-by-27; and $4.95, a 27-by-30. Kwik-Proof colors are sold for $11.10 a quart and $35 a gallon.

Cromalin. Highly accurate, Du Pont's single-sheet system is a little too expensive and time-consuming for newspapers. But it wasn't designed for newspapers; it was designed for lithographic, gravure and flexographic printers, who use it heavily, along with advertising agencies.

A start-up equipment package, which doesn't include an exposure source, sells for about $5,000.

The Cromalin photopolymer is loaded into a laminator which removes the base sheet and affixes the photopolymer onto a sheet of proofing paper. Through the appropriate separation negative (or positive), the sensitized proof sheet is then exposed to ultraviolet light on a vacuum frame. Then the cover sheet is peeled off and dry pigment toner is applied by hand or by an automatic toning machine.

The process of laminating, exposing and toning is repeated for each separation film, and the Cromalin layers are successively laminated to the proof.

Final Proof. Introduced by American Photo-Graphics Corp. in 1980, Final Proof is intended primarily for lithographers, currently has no newspaper users, but could be adapted to the newspaper market, according to Vice President Ronald Edhlund.

A negative-acting system, Final Proof produces a proof that is ink on paper. There are no layers of film, no laminations, and no coatings over ink. Final Proof also produces a "soft" dot structure just like the printed job, and has the capability to strengthen or weaken one or more of the colors—just as can be done on the press, the company says.

Cost of a 20-by-24-inch proof is about $8.

Spectra. Developed by Keuffel & Esser Co. and distributed by EAC Graphics, a division of Heidelberg Eastern Inc., the Spectra system was introduced this year. It

Increase humidity, decrease web breaks

Winter is approaching, and to people in a newspaper press room it means more than shoveling snow or scraping ice off a windshield.

To them, it also means a dramatic decrease in relative humidity, which if not artificially corrected can lead to press-room web breaks.

Using a humidifier to maintain a minimum 45-percent relative humidity in the press room is recommended by engineers of the ANPA Research Institute. Moisture in newsprint increases elasticity, allowing the web to stretch as tension increases.

When supplied, most newsprint has a 7-percent moisture content. The level should be maintained at 7 to 7.5 percent for good runnability characteristics, ANPA/RI specialists say.

In a low-humidity press room, much of a roll's moisture is lost as it unwinds, even before the paper reaches the impression stage on a high-speed press. Especially when combined with cooler-than-normal temperatures, the paper becomes brittle and a good candidate for a web break.

Specialists say an increase in press-room humidity also likely will improve printability, with a decrease in showthrough and ink consumption as well as in ink mist.

In addition, they say that folders, stackers and stuffing machines operate at a higher efficiency when operated under controlled humidity conditions.

also has no newspaper users and appeals principally to lithographers or commercial printers, the company says.

A negative-acting system, the six-step Spectra procedure involves exposing the imaging material to ultraviolet light, putting it into a special processor, applying dry toners, reprocessing the film, laminating all processed imaging films together and mounting on printing stock.

Instaproof. Consolidated International Corp.'s system for positive or negative proofing, also introduced earlier this year, could be used by newspapers, according to the company.

Using a roll-away camera/viewer unit, Instaproof allows immediate viewing of process color positives directly from the platemaking films before making an instant proof of these positives. Individually illuminating and superimposing the film images on a viewing screen, the unit can make proofs up to 20-by-24 inches within 60 seconds by exposing the images to Polaroid film and processing. There are no chemicals, powders, multiple exposures, lamination or re-registration.

An instant proof costs less than $6, the company says.

A photographic paper proof can be made by exposing negatives to Kodak paper and processing in five minutes. A full-color rapid proof, 20-by-24 inches, costs less than $5, the company says.

The system has been sold to two lithographers and three commercial printers, the company says. The $40,000 units will be shipped in about three months.

Gevaproof. Agfa-Gevaert's pre-press proofing system, developed about 1970, appeals mainly to commercial printers and has not been adopted by newspapers, the company says.

The .007-inch polyester proofing material can be handled in room light and requires no special environmental conditions. Processing is the same for each color, according to the company, and basic colorants are stable printing ink pigments.

A finished four-color Gevaproof, 20 by 24 inches, takes about 40 minutes to make; materials and chemistry costs are $15. Required special equipment costs about $1,000. Available colors are yellow, magenta, cyan and black; sizes are 10-by-12, 16-by-20 and 20-by-24 inches. ☐

Home-grown electronic system serves variety of daily's needs

About three years ago, management at the Daily Reporter of Martinsville, Ind., was looking for a good front-end system. But there really wasn't anything on the market that fit all the Reporter's needs, says Publisher Wendell Holt.

So the Reporter (evening, circulation 7,418) signed a consulting analyst to a two-year contract to design a multi-terminal system to handle everything the Reporter wanted it to: text processing (including wire copy), advertising, payroll, accounting and circulation monitoring—with output to a phototypesetter or printer.

In July 1977, consultant Jon Myntti—later hired by the paper as production manager—started work on system design. In about a year and a half, the "Newsmate" prototype was in operation, and the system has been undergoing refinement ever since.

Compared with the cost of shopping for an applicable system and getting it installed and running, Holt says, the Reporter "probably wound up saving a fair piece of money" by doing the job itself. "We feel that we've made a good move."

Says Editor Robert Kendall: "I've lived with Newsmate for two years and have watched it develop from a usable, but sometimes frustrating, typesetter into a full-blown method of producing a newspaper. Newsmate is not perfect, but it is perfectible, and that is one of its prime advantages."

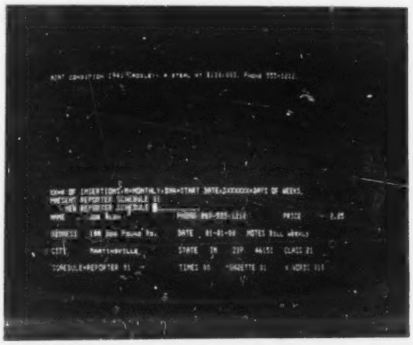
The system has had "no significant breakdowns" in more than a year, Kendall says.

Based on their experience in Martinsville, some of the newspaper's executives formed an independent corporation in February 1979 to develop, manufacture and market similar systems for small- to medium-size newspapers. The first sale was made to The Madison (Ind.) Courier (evening, 9,405), and installation began in October.

What makes Newsmate different from other systems on the market, its promoters say, are improved response time, flexibility, adaptability, dedication to small- and medium-size papers (up to 30,000 circulation), an accounting system designed specifically for newspapers and output capabilities.

Myntti says Newsmate is fast and flexible because its control software—which acts as a go-between for the user and the actual computer program, and which directs how and when the program comes into play—is designed not for general purposes but according to the way a newspaper operates.

That approach has allowed Newsmate to use inexpensive processors with less memory than other systems, yet improve on the response times of those systems, he says.



"Classmate" schedules, prints and bills ads.

Newsmate's design divides tasks into two categories: small ones like deleting a character or a word, and large ones like deleting a sentence or a paragraph. Small jobs are performed rapidly in an "interrupt mode"; a timing pulse interrupts other work while checking 120 times a second to determine whether high-priority tasks need to be done.

Hardware, software. The hardware, with the exception of a phototypesetter interface built by Myntti and a line printer made by Sanders Technology Systems, is standard, off-the-shelf equipment made by Texas Instruments.

A typical installation might consist of four to eight terminals, a two- to 10-megabyte disk, a printer and/or phototypesetter and a microcomputer.

Other peripheral equipment can be added, with no change in the basic disk software. For instance, a Newsmate system can be configured with two 250,000-byte disks or a 1.6-billion-byte disk.

The primary news system is called "Storymate," which performs the tasks commonly associated with newspaper front-end systems.

The "Wiremate" program puts wire service news into the system so an editor can use Storymate to process all stories.

The "Classmate" program is a full classified advertising system. An operator, guided by a series of questions, enters the ads. Then the ads are scheduled, printed and billed automatically.

The system does not include graphic display of advertisements.

Newsmate's accounting system, written in in the computer language known as "COBOL," is designed to ease handling of accounting procedures and to generate reports. Other features provide the tools to monitor cash flow, employee productivity and changes in revenues from various sources.

The system also includes a circulation module for preparing mailing and subscriber lists. It handles billing, puts out reports and carries out other subscription-maintenance functions. It can produce lists of non-subscribers, complaints, drivers and subscribers' phone numbers.

Cost. A two-terminal system, with two-megabyte memory, a printer and the Newsmate local news package, would cost about $27,500. Additional terminals go for $2,000 apiece. A 10-megabyte hard-disk memory system costs $4,000.

Wiremate costs about $3,000 for a low-speed system, $5,000 for a high-speed version.

The Classmate program costs $3,000, not including a printer.

The accounting and circulation programs are each $3,000.

The Newsmate company doesn't just ship a buyer "a disk pack and our best wishes," Myntti says. The company will install and tailor the system to a newspaper's particular needs—for instance, custom designing a keyboard layout.

Besides acquiring the hardware from TI and reshipping the whole package to a newspaper, the company offers maintenance service in the field and prices into each system a set of spare parts. Alternatives are getting service from Newsmate on an as-needed basis, entering into joint agreements with Newsmate and TI, or using TI's service alone.

For more information, contact Holt or Mark Kendall or Donna Kendall at the Reporter, 60 S. Jefferson St., Martinsville, Ind. 46151, (317) 342-3311; or at Newsmate Products Inc., 23 E. Main St., Mooresville, Ind. 46158, (317) 831-0159. ☐

Spelling-proofing software receives U.S. patent

A patent has been granted for Micromark™ software, developed by the ANPA Research Institute to check spelling and typographical errors in news copy on video display terminals [**presstime,** March 1980, p. 46].

U.S. patent no. 4,290,105, awarded to ANPA in September, expires in September 1998.

ANPA/RI currently offers the software package in three versions—to run on Digital Equipment Corp.'s TMS 4.3, TMS 5.1 and TMS 5.2 newspaper text-management systems.

The software is being used by 20 newspapers.

Patented earlier, a stand-alone Micromark hardware device is manufactured and marketed under license from ANPA by Telcon Industries Inc., Fort Lauderdale, Fla. The device gives a newspaper the option of running the Micromark program independently of its main computer.

Telcon President Sydney Simon said his company has sold several Micromark devices. An advertising campaign for Micromark will be started next year, and Simon forecasts potential sales of 30 to 40 units a month.

Telcon has boosted the Micromark vocabulary from 20,000 to 30,000 frequently occurring words and plans to refine it three times a year into the equivalent of a "real working dictionary," Simon said.

Here's a printer that substitutes for phototypesetter

At the Daily Reporter of Martinsville, Ind., the Newsmate system is hooked up to an "intelligent" printer that can set fully justified copy much as a phototypesetter does—but without the use of silver-based materials.

Currently, the printer can set only 7-point to 10-point type, so headlines and display advertising are still set on a phototypesetter.

But the printer—a Sanders Technology Systems Media 12/7—will justify written matter into lines of proper length and spacing, and print them black enough for newspaper reproduction. It does that by printing a character, altering position a quarter of a dot width, and reprinting over it four times.

It works beautifully for setting the body of news stories (a sample is inset), according to Reporter staffers. And it cuts in half the money spent on developers and photosensitive paper. Twelve to 20 typefaces can be stored in the printer's electronic memory.

Certain aspects of newspaper production have to be altered to use the printer, reports Production Manager Jon Myntti, who designed the Newsmate system. The temperature of the waxer used in the paste-up process has to be reduced to about 150-155 degrees Fahrenheit, so that the wax doesn't bleed through the paper. Minor changes also have to be made to exposure times in platemaking.

In more than a year of operation, there has never been a "catastrophic breakdown," Myntti says.

WASHINGTON (UPI) — President Reagan's age of austerity officially began at midnight, when the government's new year brought lower taxes, higher student loan costs and a diminishing federal presence in the lives of Americans.

The beginning of fiscal 1982 marks the start of some changes in American life — changes resulting from Reagan's sweeping economic

'Buyouts' of printers may have peaked

By Clark Newsom
presstime labor writer

They're formally known as "termination incentives." More commonly, they're called "buyouts."

But whatever the nomenclature, these financial inducements offered by newspapers have a clear purpose: to persuade printers to give up jobs that have been guaranteed for a lifetime.

Currently about 120 newspapers have a buyout program, but many observers think the popularity of such incentive programs has peaked.

In the newspaper business, the notion of guaranteed jobs dates back to the early 1970s, when dailies in such cities as San Francisco, Cleveland and Salt Lake City made new labor agreements with the International Typographical Union.

In exchange for the unprecedented job guarantees, the local unions gave newspapers flexibility in the use of the new electronic technology.

Job guarantees generally provide that printers named in a "job security" list are guaranteed employment for the remainder of their working lives—until they leave by retirement, resignation, death, disability or are discharged for "just cause."

As news of the landmark newspaper agreements spread, other papers saw the opportunity to secure similar concessions from their ITU locals. Eventually, more than 100 papers adopted such agreements.

But new technology, particularly the electronic copy processing systems, quickly caused an over-staffing of composing rooms. Hundreds of printers with lifetime jobs were left with nothing to do.

Hence, the "buyouts."

Provisions of the 116 termination-incentive programs now in force between newspapers and their ITU locals are summarized in a recent study prepared by the ANPA Labor and Personnel Relations Department.

Terms vary. The incentives offered to printers by newspapers vary widely from city to city.

For example, a printer under age 62 at any of the eight newspapers in Michigan owned by Booth Newspapers Inc. can—with the concurrence of the company—give up his lifetime job for a lump sum of $14,000. Or, at age 62, an employee can leave with $500 a month until age 65 with life and medical insurance continued for three years.

Roger C. Schoemaker, director of employee and labor relations, reports that about 200 printers have left the Booth papers under those terms since the offer was made in 1974.

Similarly, the Chicago Tribune offers printers up to age 70 a $15,000 lump sum payment. Employee Relations Director Peter E. Heraty says that 96 employees have accepted the offer since it was made in 1975.

And some newspapers provide even greater incentives to leave. Under a new agreement at The Washington Post, printers had the opportunity between July 6 and Oct. 6 this year to give up their job guarantees in exchange for payments, based on age, ranging between $25,000 and $35,000 if taken in a lump sum, or up to $52,500 if taken in installments.

For example, printers age 50 and younger had the option of taking either $35,000 or $437.50 a month for 10 years. In addition, contributions were made to the ITU Negotiated Pension Plan (see story, p. 44) for those who left. Forty-nine printers accepted the "buyout" during the three-month period it was offered, according to Lawrence A. Wallace, vice president/industrial relations.

Ironically, shortly before The Washington Star closed last August, 17 printers there accepted $45,000 apiece in retirement incentives, according to William J. Boarman, president of Columbia Typographical Union No. 101. When the Star folded, their 82 composing room colleagues who had opted to stay on the payroll ended up receiving only four weeks' severance pay.

Currently, printers at the Indianapolis Star and News can receive a cash package that decreases in value the longer they wait. A series of 24 monthly payments began June 1, 1981. The final monthly payment will end in June 1983.

The amount received is based on age. For instance, printers up to age 59 who left last June could receive $20,000 in cash

employee relations

and 24 monthly payments of $1,600 for a total of $58,400. The plan also provides for continuation of hospital and medical insurance for up to two years. The company can withdraw the offer at any time.

Personnel Director Kenneth R. Kleinschmidt reports that to date, 60 printers have accepted the offer. On Oct. 1, there were 259 printers on the job security list, compared with 480 in 1974; the number decreased as a result of normal attrition and previous buyout offers.

The Journal and The Evening Bulletin in Providence, R.I., offer four options to those under age 50 whenever the publisher declares there is a surplus of printers. The options are: (1) $20,000 plus moving expenses; (2) $20,000 plus a $10,000 five-year, interest-free loan; (3) college tuition up to $5,000 a year for a maximum of four years, $800 a month for as long as enrolled (up to four years) and moving expenses; or (4) $20,000 minimum (depending on length of service), moving expenses, up to $5,000 a year to cover tuition for junior college or trade school for two years, and $800 a month while attending classes. R. Barrie Schmitt, director of personnel and labor relations, says the fourth option has been the one most frequently taken.

Earlier this year, Newsday of Long Island, N.Y., offered a supplemental retirement plan based on earnings in 1980. Printers under age 61 could receive 225 percent of earnings; age 61, 200 percent; age 62, 175 percent; age 63, 125 percent; and 64 or older, 75 percent.

For example, a 60-year-old employee who earned $23,000 in 1980 received a lump sum of $51,750. He could have opted to take deferred payments, including interest, of $1,099.54 for 60 months ($65,972.40) or $683.88 for 120 months ($82,065.60). There were also provisions for continuing group medical benefits.

The offer was open between Jan. 16 and Feb. 12 and only to those who had satisfied the necessary age and service requirements to retire under the company's retirement plan. Daniel V. Mannix, director of employee relations, says 26 printers took early retirement under the plan.

Also last January, the New York Daily News offered incentives ranging from lump-sum payments of $8,000 to those 65 and older to $20,000 to those 60 and below. The offer included payment of the unused portion of productivity leave and continuation of group life and medical insurance for either five years or until age 65.

Fourteen printers accepted the offer. Gregory L. Thornton, vice president/director of industrial relations, notes that this was the third buyout offered, with 35 printers accepting the first and 73 the second.

May be ending. Despite this level of activity, some people feel the buyout period is coming to an end.

One such person is ITU Vice President Robert L. Wartinger, who helped negotiate many of the first job guarantees. He says the desire to eliminate printers has leveled off.

Joseph F. Kolder, director of personnel and industrial relations at the San Francisco Newspaper Agency, believes the international union is encouraging local unions to resist future buyout offers because of the impact they have on the ITU's Negotiated Pension Plan and on the number of dues-paying members.

He says the ITU would prefer that locals try to work out programs with publishers where surplus printers would be trained for jobs outside the composing room and continue to pay ITU dues on the basis of not working "at the trade."

Meanwhile, in many smaller cities, normal attrition has reduced the staffs of composing rooms to the levels desired by management, observes John B. Hammett, vice president of employee and community relations at the San Jose (Calif.) Mercury and News.

Leon Olson, president of San Francisco Bay Area Typographical Union No. 21, who has strongly opposed buyouts all along, suggests that a four-day workweek with no reduction in pay is the answer to overstaffed composing rooms. "With recession," Olson says, "there is less inclination to leave the trade and strike out into something new."

Likewise, Charles Cole, ANPA manager/labor relations, says, "Unless we see a dramatic lowering in the unemployment rate and a commensurate increase in job opportunities, buyouts are no longer an effective way to reduce excess personnel in the composing room.

"The only exception is in those limited situations where the newspaper will provide not only a generous lump-sum payment but also a monthly income equal to early Social Security retirement income, and hospitalization and major medical insurance until age 65. Failure to provide this level of payments will find but few willing to leave their jobs."

A copy of the ANPA study, "ITU Job Guarantees and Termination Incentives," can be obtained from Cole at The Newspaper Center, Reston, Va. ☐

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Congressman seeks alternatives to multiemployer

An Illinois congressman told the ANPA Labor and Personnel Relations Committee he sees "very little chance" for Congress to respond to problems growing out of the insuring of multiemployer pension plans until someone comes up with concrete proposals.

A multiemployer pension plan is one to which two or more employers contribute under collective bargaining agreements.

"There is a lot of talk today about doing something about multiemployer insurance, but all I've heard is complaints," said Rep. John N. Erlenborn, a ranking Republican on the House Education and Labor Committee, which has jurisdiction over multiemployer pension legislation. "I've not heard anyone who has come up with a good alternative . . . that is less onerous for employers."

Erlenborn spoke at the ANPA Committee's meeting Oct. 6 at Dulles International Airport.

The previous day, the Committee met with members of the International Typographical Union to discuss the status of the ITU's negotiated pension plan, which is a multiemployer plan. (See report below.)

In 1980, Congress changed the Employee Retirement Income Security Act to

Report issued on ITU Negotiated Pension Plan

(Editor's note: Representatives of the International Typographical Union and the ITU Negotiated Pension Plan met at Dulles International Airport Oct. 5 with several newspaper executives and staff from the ANPA Labor and Personnel Relations Department to discuss the pension plan. The meeting was closed to press and public, but participants subsequently issued the following status report on the plan, detailing some of the changes in its administration.)

Newspapers, particularly those with large circulations, are most active in the Negotiated Pension Plan. Approximately 20,000, or two-thirds, of the plan's participants are or were employed in the newspaper business. Of these, two-thirds come from newspapers with circulations over 100,000. The remaining one-third are connected with commercial shops. There are currently 16,260 retirees receiving a total of $1.8 million in monthly benefits. As of July 1, 1981, the average monthly benefit is $117. To date, over $150 million has been paid out.

The ITU NPP was founded in 1966 and is administered by a joint board of union and management trustees. It is administered independently from the union. As an example of this, ITU First Vice President Robert McMichen pointed out that NPP employees are prohibited from engaging in internal union politics.

The plan's assets are approximately $230 million. Employer contributions for 1980 were approximately $28 million and investment income was approximately $20 million, providing the NPP with a positive cash flow during 1980 in excess of $25 million. In all, the plan has realized $100 million in investment income since its inception. Earnings of the plan portfolio for 1980 were 9.68 percent. Michael Kaplan, plan actuary, advises that the plan's unfunded vested liability at the end of 1981 will be approximately $76 million.

Under the Employee Retirement Income Security Act, it is a violation for an employer not to make its agreed-upon contribution. James Gill, attorney for the fund, said the delinquency rate is 0.3 percent of total contributions. In addition to the required contribution, the NPP Board attempts to collect from a delinquent employer interest at the prime rate plus 2 percent, all costs penalties (20 percent of delinquent contribution, but not less than $250 per delinquency) and attorneys' fees.

The ratio of employed to retired persons is currently 2 to 1. A major concern is how the decline in ITU membership will affect the NPP. To combat membership losses, union representatives stress that the ITU is no longer "just a composing room union" and that it is actively seeking to represent other types of employees. To assure solvency of the plan, the trustees have decided that retirement benefits will not increase until plan participation has stabilized. Stabilization is defined by the trustees as no further decrease in plan participants.

The ITU hopes to encourage more employers to participate in the NPP through its "Six-Year Free Look" program. A new employer may contribute to the plan for up to 6 years and still withdraw without incurring any withdrawal liability. The "Six-Year Free Look" policy is possible under recent amendments to ERISA.

Enactment of ERISA required the NPP trustees to make "drastic changes" in the pension plan, according to administrator Carl Hatton. As of 1977, newly participating employees are no longer granted past service credit. Credit for future service has been reduced from 1.7 percent to 1 percent of employer contributions.

But the most drastic action can occur under Section 802 of the plan. According to this provision, whenever contributions cease or are reduced by an employer, trustees can revoke past service pension benefits if the plan would be adversely affected. In fact, past service pension benefits have been revoked in every case to date in which an employer has terminated participation and continues in business.

Every multi-employer pension plan is required by ERISA to be completely funded in 40 years. The ITU estimates that the NPP is running 15 years ahead of its minimum funding requirements. There is $16 million in a minimum funding standard account, which the ITU expects to rise to $25 million by the end of 1981.

A "dedicated account" was established in 1980 to assure pension payments to persons who retired as of Dec. 31, 1980. That fund contains $109 million. The union anticipates that the trustees will annually dedicate additional funds to protect the pensions of those retirees in future years.

The ITU will make no projections as to when the number of plan participants will stabilize. The ITU states that even if the number of NPP participants does not increase, the funding of the plan is sound. It projects that the plan will be fully funded in 20 years. Net assets stood at $229,964,675.50 as of June 30, 1981.

pension plans

provide that if a company withdraws from a multiemployer plan, it must continue to contribute to the plan until its share of the unfunded liability is satisfied or until the company becomes insolvent [**presstime,** Nov. 1980, p. 12].

Prior to that change, a company pulling out of a multiemployer plan could have been assessed 30 percent of its net worth, with that money going toward the unfunded liability.

Erlenborn said Congress passed the amendment after learning that where a company was not highly capitalized and where there was a large, unfunded liability in the pension plan, it could have been cheaper for the company to pull out of the plan, pay the 30-percent penalty and start its own pension plan—thereby leaving the remaining companies in the multiemployer plan "holding the bag" for the unfunded liability.

Citing reports from some trucking companies that they will not hire union drivers because of the requirements of multiemployer plans, Erlenborn said he has contended all along that such requirements are "very anti-union" because of the burden they place on companies with unionized employees. "Many employers just resist having anything to do with unions as a result," he said.

On another topic, Erlenborn told the Committee that there has been a "deafening silence" in the 97th Congress on the issue of minimum wage.

He said there is a standoff between unions, which would like to see an increase but are fearful that consideration of the issue might lead to a decreased minimum wage for young people, and employers, some of whom would like a youth differential but not an increase in the minimum wage. □

Rep. Erlenborn (right) discusses pending legislation with Committee Chairman Darrow Tully (center) of The Arizona Republic and Phoenix Gazette and Vice Chairman Keith R. Fuller of McClatchy Newspapers. In background is Roy W. Anderson, ANPA vice president/labor and personnel relations.

Court rules for publisher in union fine case

The 9th U.S. Circuit Court of Appeals has vacated a National Labor Relations Board decision that a union's fining of a supervisor-member did not violate the Taft-Hartley Act.

Local 296 of the Teamsters had fined Robert O'Donnell, foreman of the newsprint warehouse at the San Jose (Calif.) Mercury and News, for performing bargaining unit work prior to the start of the scheduled workday. It suspended $150 of the $250 fine but threatened to reinstate that portion if O'Donnell continued to work "off-the-clock."

The dispute went first to an NLRB administrative law judge, who ruled that the union's action did not violate the act. A divided NLRB panel subsequently upheld that ruling [**presstime,** Sept. 1980, p. 41].

Northwest Publications Inc., the company that publishes the newspapers, then appealed the board's decision to the court.

The court said that the NLRB had failed to follow its own precedents and remanded the case to the board for further proceedings "consistent with this opinion."

Although the NLRB had found that the union's discipline of O'Donnell involved neither the company nor the labor agreement, the court noted that the union's initial letter to O'Donnell cited sections of the agreement. "The question is not whether there was an employer-union dispute but whether there should have been," the court said.

The board's ruling that O'Donnell's "prestart" activities were not supervisory functions was inconsistent with its rulings in similar cases, the court said. Under the board's decision, the court added, the union could decide unilaterally which of O'Donnell's activities were covered by the labor agreement and which were supervisory, thereby avoiding established grievance procedures.

(Northwest Publications Inc. v. NLRB, USCA9 No. 80-7459) □

Recent contract settlements

Baltimore Sun, Guild: Three-year agreement covering editorial and commercial employees retroactive to June 10, 1981.

Cincinnati Enquirer, GAIU: Three-year agreement covering photoengravers retroactive to March 1, 1981.

Cincinnati Enquirer, independent union: Three-year agreement covering editorial employees retroactive to March 1, 1981.

Indianapolis Star and News, ITU: Three-year agreement covering mailers retroactive to Nov. 27, 1980.

(Details in ANPA Labor & Personnel Relations Letter Vol. 2, No. 10, October.)

Board issues disclosure order on amount paid correspondents

The NLRB has reaffirmed its 1978 order that The Times of San Mateo, Calif., give the San Francisco-Oakland Newspaper Guild information on the aggregate amount paid to non-union, independent correspondents during three months of 1976.

The case was remanded to the board last year by the 9th U.S. Circuit Court of Appeals [**presstime**, Jan. 1981, p. 40]. The court, referring to "aggregate," had questioned the need for confidentiality concerning the amounts paid individual correspondents.

The board explained that it was protecting the privacy rights of the non-bargaining-unit writers. Furthermore, the board said, the Guild did not need individuals' pay data to get an answer to its expressed concern over how large a "slice of the pie" the correspondents as a group were getting.

While data concerning wages and conditions of employment are presumptively relevant to a union in collective bargaining, there is no such presumption where the requested information concerns unrepresented individuals, the board added.

Times Editor and Publisher J. Hart Clinton said the newspaper will not appeal the board's decision.

(Amphlett Printing Co., 258 NLRB No. 19) ☐

Daily ordered to bargain with mailers over contract for circulation employees

The NLRB has adopted an administrative law judge's 1980 recommendation and ordered The Daily Advance of Dover-Roxbury, N.J., to bargain with Newark Mailers' Union No. 11 over an initial contract for circulation department employees.

The case has been tied up in NLRB proceedings since a representation election was conducted in 1974 [**presstime**, April 1980, p. 37]. The bargaining unit includes drivers, mail clerks, mailroom helpers and district advisors.

The newspaper contended that some of the drivers were independent contractors.

Publisher Rosemarie Maio said in late October no decision had been made on whether to appeal the decision.

The board did amend Judge Herzel H.E. Plaine's recommended order in one respect.

Plaine had held that the newspaper violated the Taft-Hartley Act when, without bargaining with the union, it moved the mailroom portion of the circulation department from Dover to a new plant in Roxbury. But the board dismissed the charge because it had not been filed within six months after the action in question, as required by Section 10(b) of the act.

(Drukker Communications Inc. and its wholly owned subsidiary, The Daily Advance Inc., 258 NLRB No. 97) ☐

NLRB elections

Fort Worth (Texas) Star-Telegram, CWA: The Communications Workers of America failed to obtain the required majority vote from a unit of clerical employees in a circulation zone office. The vote was 5-5.

(NLRB Case No. 16-RC-8395)

Pittsburgh Press, Mailers: Data systems employees, including computer programmers, voted 10-2 in favor of representation by Mailers' Union No. 22.

(NLRB Case No. 6-RC-9026)

Canadian election

Winnipeg (Manitoba) Free Press, ITU: Composing room employees voted 43-37 in favor of representation by Typographical Union No. 191. They formerly were represented by an independent employees' association.

NLRB awards work to machinists, not electricians

Machinists are entitled to perform the work of removing and reinstalling drive motors which power press units at the Carlstadt, N.J., plant of The New York Times, the NLRB has ruled.

The work had been claimed by electricians represented by the International Brotherhood of Electrical Workers. The machinists are represented by the International Association of Machinists and Aerospace Workers.

The case arose with the first malfunction of a unit's drive motor. Management assigned to the electricians the work of disconnecting the malfunctioning motor from the electrical source and later reconnecting it. The work of removing, reinstalling and realigning the motor was assigned to machinists.

The IAM threatened a strike to "protect its jurisdiction." The Times then filed charges with the NLRB on grounds that it is an unfair labor practice for a union to exert such pressure on an employer to continue a work assignment.

The Times told the NLRB that it had assigned the work to the machinists because only they had the skills, training and experience necessary to perform the work, which involves special tools and rigging designed by the machinists.

In upholding the company's assignment, the board noted uncontradicted testimony by the assistant plant manager that additional electricians would have to be hired and trained if the work were awarded them.

(IAM and The New York Times Newspaper Division of The New York Times Co. and IBEW, 257 NLRB No. 133) ☐

Guild backs out of election

Local 80 of The Newspaper Guild withdrew its petition for a second representation election this year for advertising department employees at the Greensboro (N.C.) Daily News and Record.

The election had been set for Sept. 30. Earlier, the employees had voted against the union, but that election was set aside [**presstime**, Oct. 1981, p. 40]. ☐

N.Y. daily offers settlement to end two, year-long strikes

The Oswego (N.Y.) Palladium-Times has negotiated a settlement agreement with one of two unions that have been on strike against the newspaper for a year.

The agreement was reached Sept. 18 with the Service Employees International Union. The union struck Oct. 11, 1980, in an effort to obtain an initial contract for advertising, business office, circulation and editorial employees [**presstime,** Nov. 1980, p. 32].

The agreement calls for the newspaper to make a payment to the union, which would distribute the money to the strikers in return for their waiving rights to employment at the Palladium-Times. Reportedly, each of the 16 SEIU strikers would receive about $2,000.

The agreement also calls for the union to withdraw charges filed with the NLRB and for the newspaper to end an attempt to overturn unemployment compensation awarded the strikers.

The second union striking the Palladium-Times, Typographical Union No. 445 representing six composing room employees, has been made a similar settlement offer. Management was awaiting a reply in late October.

The Palladium-Times has continued publication throughout the strike.

In addition, the two unions have been publishing a five-days-a-week tabloid strike paper called the Oswego County Messenger. The agreement requires the Messenger to publish notices of the end of the strikes and for the Palladium-Times not to interfere with the Messenger's plans to become a regular newspaper.

Meanwhile, strikes are continuing at The News of Paterson, N.J., where the ITU struck Feb. 10 [**presstime,** March 1981, p. 47]; at the Terre Haute (Ind.) Star and Tribune, where the Guild struck Feb. 27; and at the Covington Virginian, where the ITU struck April 16 [**presstime,** June 1981, p. 45]. All of the newspapers are publishing. □

GAIU calls for merger of all newspaper unions

The Graphic Arts International Union convention adopted a resolution calling for the merger of all graphic arts unions and another asking the AFL-CIO to create a graphic arts unions department.

Approval came at the union's Oct. 12-16 convention in Detroit.

GAIU President Kenneth J. Brown had invited three other newspaper union presidents to attend the convention and to "close ranks" [**presstime,** Aug. 1981, p. 36].

Charles A. Perlik Jr., president of The Newspaper Guild, was there. The International Typographical Union was represented by Second Vice President Robert L. Wartinger. The International Printing and Graphic Communications Union did not send a representative. □

NLRB rules firing of union supporter was not unlawful

An administrative law judge's dismissal of unfair-labor-practice allegations against The Detroit News has been affirmed.

Charges in the case were filed by Local 372 of the Teamsters on behalf of a former News telephone switchboard operator whose job was eliminated when a new telephone system was implemented.

Without comment, the NLRB affirmed Judge Robert A. Gritta's findings that the company's refusal to transfer the employee to a new editorial-clerk/telephone-operator slot had not been motivated by her union activities, and that she was dismissed after refusing two other jobs [**presstime,** May 1981, p. 45].

(The Evening News Association, 258 NLRB No. 20) □

Recent arbitration awards

Detroit News, Teamsters: Gabriel N. Alexander reduced from 10 days to three the disciplinary suspension given a circulation district manager for violation of check-handling procedures.

Elizabeth (N.J.) Daily Journal, ITU: Joseph F. Wildebush granted the union's request for an annual 9-percent wage increase ($33.71 weekly) retroactive to Oct. 1, 1980.

Milwaukee Journal and Sentinel, IPGCU: Peter Seitz, ruling on two issues, held that the company's press manning practices did not impose "an unduly burdensome or excessive work load" on pressmen, and that the foreman has the right to transfer a pressman from the basic press crew to utility work.

Milwaukee Journal and Sentinel, ITU: Elliot I. Beitner reinstated with back pay a printer who had been discharged for "neglect of duty"—making errors in ads.

Monessen (Pa.) Valley Independent, ITU: Clair V. Duff ruled that the layoff of two employees with more seniority than supervisors who were not laid off violated neither the labor agreement nor the Taft-Hartley Act.

St. Louis Post-Dispatch, ITU: Gerald Cohen found that because of particular language in the labor agreement, the newspaper was obligated to pay group life and health insurance premiums for printers during a period when they were idled by strikes of other employees.

Salem (Ore.) Statesman-Journal, ITU: Eugene R. Neill ruled that the union's jurisdiction over the composing room did not extend to the newspaper's one-person job shop.

San Francisco Newspaper Agency, IBEW: Francis Richard Walsh upheld the newspaper printing company's right to schedule a shift beginning at 6 a.m. at the day-shift pay rate.

San Jose (Calif.) Mercury and News, IPGCU: Francis Richard Walsh found that the union was not responsible for a work slowdown by its members.

Victoria (British Columbia) Times-Colonist, IPGCU: H. Allan Hope found that the union was wrong in claiming overtime pay for a substitute pressman who had worked a double shift when there were other substitutes available to work at the straight-time rate.

(Full texts available from the ANPA Labor and Personnel Relations Department at The Newspaper Center, Reston, Va.)

Parasite nematode threatens kenaf, but solutions known

By Margaret Genovese
presstime staff writer

Consider the lowly nematode. Several newsprint manufacturers are.

Why the interest in a creature that can be seen only under a microscope?

Because the nematode, a parasitic worm, long has been considered a problem in the production of kenaf, the plant being investigated as a source of fiber in the production of newsprint [**presstime**, March 1981].

But as has been the case with other crops—and there are few that are not susceptible to some species of the pest—experts studying the kenaf-to-pulp equation indicate that inexpensive solutions to kenaf's nematode problem already have been identified. These solutions will be discussed at next year's international kenaf newsprint conference (see story this page).

The species to which kenaf is particularly prone is the root-knot nematode. It attacks the plant by secreting a substance into the cells of the root as it feeds.

The substance causes the creation of giant cells which develop into knots that interfere with the movement of phosphorous to the plant tissues. Nematode infestation can be so great as to stunt or halt kenaf's growth; leaves may yellow and fall off, and the plant may eventually die.

As kenaf is relatively free from other problems caused by insects and disease, its susceptibility to nematodes is considered the most serious pest problem constraining kenaf production, according to Soil and Land Use Technology Inc. The Columbia, Md., firm is preparing a report for ANPA on the economics of kenaf production.

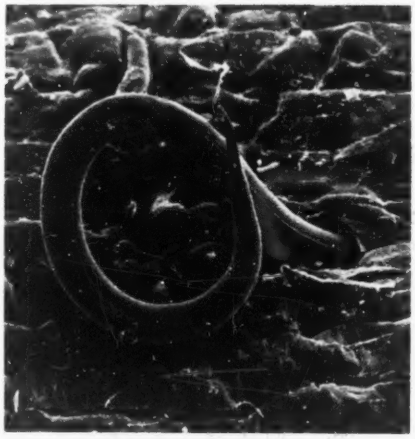
However, SALUT's Charles S. Taylor said the nematode problem is a "manageable" one.

First, he said, it can be sidestepped. Nematodes are not a problem everywhere. They are most prevalent in the Southeastern United States, particularly the sandy coastal areas. But even there they are not found in problem levels everywhere, so initial kenaf production efforts likely will be able to avoid land heavily infested with nematodes, he said. Soil tests are necessary to determine whether nematodes are present in an area; and where they are detected, the type and the level of infestation.

Second, where the pests are present but not considered a severe problem, control practices can be instituted. Options Taylor cited include rotating kenaf with crops having a resistance to nematodes, leaving land fallow for several months and then instituting weed control, flooding and using chemicals.

For the longer term, Taylor believes once kenaf becomes an important crop, the U.S. Department of Agriculture will revitalize its efforts to develop a nematode-resistant strain of kenaf. The government has strong research efforts already underway to produce nematode-resistant strains of existing, major Southern crops, he said.

Additional work might also be done to improve roselle, a nematode-resistant but lower-yielding relative of kenaf, Taylor said. The SALUT report, including its analysis of the nematode problem, is expected to be completed by the end of this year. ☐



Root-knot nematode, magnified 600 times, penetrates a tomato root.

Manistique ownership transfers to Marshall Field

Ownership of Manistique Pulp and Paper Co. of Manistique, Mich., was transferred Sept. 30 from Field Enterprises Inc. to Marshall Field, chairman of the board of Field Enterprises.

At that time, the name of the company was changed to Manistique Papers Inc. The firm produces newsprint and specialty-grade papers. Manistique's estimated 1981 newsprint production capacity is 30,000 metric tons; FSC's is 103,000 metric tons.

At the same time, partial ownership of FSC Paper Corp. of Alsip, Ill., was transferred from Field Enterprises Inc. to Frederick W. Field. The other partner in the mill remains Garden State Paper Co. FSC produces recycled newsprint. ☐

ANPA to host kenaf meeting after Convention

ANPA will sponsor a kenaf newsprint conference April 29, 1982, at the Hyatt Regency San Francisco, following the ANPA Convention in that city April 26-28.

Entitled "Seed to Read," the conference will focus on many aspects of kenaf, the fibrous plant being studied as a possible supplement or substitute for wood in the manufacture of newsprint.

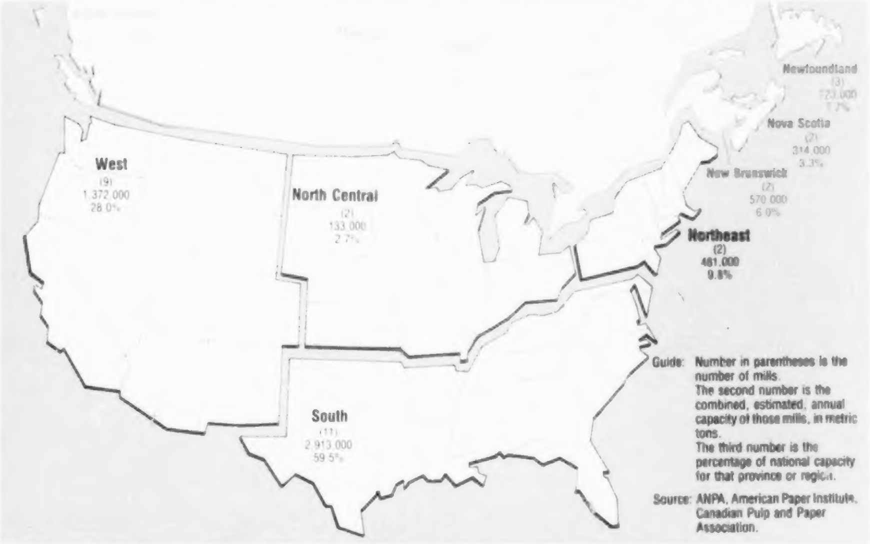
Among matters to be discussed is an ANPA-funded study of the economics of kenaf production, scheduled for completion later this year.

In the conference's morning session, a panel of experts will talk about growing and harvesting the crop, transporting and storing it after harvest, manufacturing pulp and paper from it, and printing on the newsprint produced from kenaf. The reaction of newspapers, advertisers and readers to kenaf newsprint also will be discussed.

In the afternoon, there will be in-depth discussions on various aspects of kenaf's potential.

The conference was announced by Donald N. Soldwedel, president and publisher of The Yuma (Ariz.) Daily Sun, at the Oct. 9 meeting between the ANPA Newsprint Committee, which he heads, and the Newsprint Section of the Canadian Pulp and Paper Association. ☐

Newsprint mills, by Canadian province and U.S. region (1981)



Guide: Number in parentheses is the number of mills.
The second number is the combined, estimated, annual capacity of those mills, in metric tons.
The third number is the percentage of national capacity for that province or region.

Source: ANPA, American Paper Institute, Canadian Pulp and Paper Association.

Alberto Pacheco

Canada has 65.8 percent of North American capacity

There are 65 newsprint mills in North America—41 in Canada and 24 in the United States (see map above).

The 65 mills have an estimated capacity of 14,344,000 metric tons (see chart below). Canadian mills have capacity of 9,445,000 metric tons representing 65.8 percent of the continental total; U.S. mills have 4,899,000 metric tons, or 34.2 percent. ☐

Newsprint notes

Negotiations began Oct. 12 between the United Paperworkers International Union and FSC Paper Corp.

Garden State Paper Co. was expected to begin negotiations with the same union Oct. 21.

UPIU contracts expired Oct. 1 at Garden State's Garfield, N.J. mill, and Oct. 26 at FSC's Alsip, Ill., mill. These are the last major newsprint labor contracts to be negotiated this year [**presstime,** Oct. 1981, p. 46].

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International Paper Co. completed the $1.1-billion (Canadian) sale of its wholly owned subsidiary, **Canadian International Paper Co.,** to Canadian Pacific Enterprises Ltd. of Montreal.

CPE, a holding company 71-percent owned by Canadian Pacific Ltd., said its new acquisition combined with certain affiliated companies will operate under the name **CIP Inc.,** and be based in Montreal.

U.S. customers will be served by a new Chicago-based company, CIP Forest Products Inc., with sales offices in Atlanta and Tarrytown, N.Y. ☐

1981 North American newsprint capacity (metric tons)

Canada

Rank	Company	Number of mills	Estimated capacity	Percent of Canadian capacity
1.	Abitibi-Price Inc	11	1,945,000	20.6
2.	MacMillan Bloedel Ltd	3	1,206,000	12.8
3.	*Canadian International Paper Co	3	1,046,000	11.1
4.	Consolidated-Bathurst Inc	4	950,000	10.1
5.	Ontario Paper Co. Ltd	2	636,000	6.7
6.	Bowater Canadian Ltd	2	523,000	5.5
7.	Kruger Inc	2	410,000	4.3
8.	Great Lakes Forest Products Ltd	1	387,000	4.1
9.	Reed Paper Ltd	1	329,000	3.5
10.	Spruce Falls Power and Paper Co. Ltd	1	310,000	3.3
11.	British Columbia Forest Products Ltd	1	273,000	2.9
12.	Crown Zellerbach Canada Ltd	1	252,000	2.7
13.	Domtar Inc.	3	246,000	2.6
14.	Donohue Inc.	1	232,000	2.5
15.	Boise Cascade Canada Ltd	1	220,000	2.3
16.	F. F. Soucy Inc.	1	166,000	1.8
17.	James Maclaren Co. Ltd	1	160,000	1.7
18.	Nova Scotia Forest Industries	1	153,000	1.6
19.	St. Raymond Paper Ltd	1	1,000	0.01
	TOTALS	41	9,445,000	

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*Name changed to CIP Inc. Oct. 1

Source: Canadian Pulp and Paper Association

United States

Rank	Company	Number of mills	Estimated capacity	Percent of U.S. capacity
1	St. Regis Paper Co., Southland Division	2	680,000	13.9
2	Bowater Southern Paper Corp	1	611,000	12.5
3	Publishers Paper Co	2	488,000	10.0
4	Coosa River Newsprint, Pulp and Forest Products Co., Division of Kimberly-Clark Corp.	1	381,000	7.8
5	Boise-Price Southern Newsprint Corp.	1	321,000	6.6
6	Great Northern Paper	1	295,000	6.0
7	North Pacific Paper Co	1	286,000	5.8
8	Garden State Paper Co. Inc	2	276,000	5.6
9	International Paper Co.	2	268,000	5.5
10	Catawba Newsprint Co	1	200,000	4.1
11	Boise Cascade Corp	1	161,000	3.3
12	Bear Island Paper Co	1	154,000	3.1
	Crown Zellerbach Corp	1	154,000	3.1
	Southeast Paper Manufacturing Co	1	154,000	3.1
15	Abitibi Southern Corp	1	144,000	2.9
	Southwest Forest Industries	1	144,000	2.9
17	FSC Paper Corp	1	103,000	2.1
18	Inland Empire Paper Co	1	49,000	1.0
19	Manistique Papers Inc	1	30,000	0.6
	TOTALS	24	4,899,000	

Source: ANPA and American Paper Institute

September report

Total consumption up, but dailies' use declines

Newsprint consumption by all U.S. users increased 1.8 percent in September compared to September 1980, according to preliminary figures.

For the first nine months of this year, figures indicate all users' consumption was up about 0.7 percent from the same period last year.

As for U.S. daily newspapers, consumption decreased about 2 percent in September and about 1 percent for the nine-month period.

Nine-month shipments from Canada were about 1.4 percent above the year-earlier level. Shipments to U.S. customers were down about 3.4 percent, but those overseas increased about 17 percent, and to Canadian markets about 6.6 percent.

U.S. mills' shipments for the nine months increased 12.5 percent, including a 10.6-percent gain in domestic shipments.

U.S. publishers' stocks at the end of September averaged 51 days, compared to 48 days at the end of September 1980. North American newsprint mill inventories were up about 22 percent at the end of September from a year earlier.

The U.S. operating rate for September was 92.5 percent, compared to 91.9 percent last September. The Candian operating rate for September was not available in late October. ☐

Estimated consumption of all U.S. daily newspapers[1]

Region	August 1981	August 1980	% Change
Northeast	149,333	149,142	+0.1
North Central	146,111	148,236	−1.4
South	194,246	194,423	−0.1
West	144,614	142,509	+1.5
Circulation size			
0-25,000	53,301	47,077	+13.2
25,001-100,000	118,154	121,293	−2.6
over 100,000	462,849	465,940	−0.7
August totals	634,304(r)	634,310	−0.0(r)
Eight-month totals	5,063,228(r)	5,108,533	−0.9(r)

Region	September 1981	September 1980	% Change
Northeast	155,383	159,401	−2.5
North Central	143,545	151,852	−5.5
South	198,740	193,601	+2.7
West	145,895	149,537	−2.4
Circulation size			
0-25,000	57,821	49,410	+17.0
25,001-100,000	120,432	119,183	+1.0
over 100,000	465,310	485,798	−4.2
September totals	643,563(p)	654,391	−1.7(p)
Nine-month totals	5,706,791(p)	5,762,924	−1.0(p)

Estimated consumption of all U.S. users

	1981	1980	% Change
July totals	792,000(r)	759,000	+4.3(r)
August totals	830,000(r)	819,000	+1.3(r)
September totals	838,000(p)	823,000	+1.8(p)
Nine-month totals	7,440,000(p)	7,386,000	+0.7(p)

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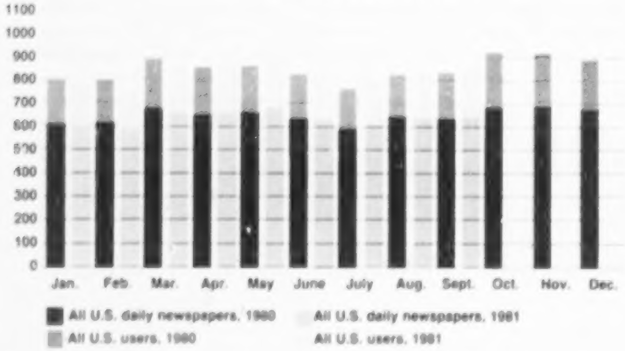
[1] Based on stratified data from ANPA-member newspapers in statistical sample; figures in this and other tables in metric tons

Estimated newsprint consumption, 1980-81
(Thousands of metric tons)



Production

	Canada	U.S.A.	North America
September 1981	707,512	400,171	1,107,683
September 1980	650,576	352,754	1,003,330
Increase or decrease	+56,936 +8.8%	+47,417 +13.4%	+104,353 +10.4%
Nine months 1981	6,619,116	3,561,794	10,180,910
Nine months 1980	6,490,997	3,165,225	9,656,222
Increase or decrease	+128,119 +2.0%	+396,569 +12.5%	+524,688 +5.4%

Shipments

From Canadian mills	U.S.A.	Canada	Export	Total
September 1981	469,534	84,437	154,424	708,395
September 1980	471,255	76,715	94,503	642,473
Nine months 1981	4,446,161	778,924	1,324,175	6,549,260
Nine months 1980	4,601,190	730,413	1,129,598	6,461,201
From U.S. mills				
September 1981	376,237	—	33,649	409,886
September 1980	336,310	—	14,148	350,458
Nine months 1981	3,336,709	—	207,645	3,544,354
Nine months 1980	3,016,965	—	132,754	3,149,719
From North American mills				
September 1981	845,771	84,437	188,073	1,118,281
September 1980	807,565	76,715	108,651	992,931
Nine months 1981	7,782,870	778,924	1,531,820	10,093,614
Nine months 1980	7,618,155	730,413	1,262,352	9,610,920

Stocks

U.S. publishers[2]		(Days' supply on hand)	(Days' supply in transit)
July 1981	951,875	49	7
July 1980	792,899	40	6
August 1981	928,055(r)	47	6
August 1980	793,094	38	6
September 1981	941,811(p)	44(p)	7(p)
September 1980	782,246	36	6
Canadian mills			
September 1981	234,702	—	—
September 1980	191,490	—	—
U.S. mills			
September 1981	38,032	—	—
September 1980	31,837	—	—

[2] Represents stocks of ANPA-member newspapers in statistical sample

(r) = revised
(p) = preliminary

Cable boom feeding growth in TV listings

By Elise Burroughs
presstime staff writer

While many newspapers are moving into cable TV, cable TV is moving on an even larger scale into newspapers—into their television pages, that is.

A **presstime** survey of 10 cities that experienced major cable expansion during the past year revealed that:

- Some newspapers have added cable programming information to their popular weekly TV magazines, some have expanded their daily television pages, and many are doing both in an effort to formulate the proper blend of information about conventional television and cable television.
- For some, mixing the two kinds of listings has touched off a storm of reader protest.
- Many newspapers are experimenting with various formats.
- There are some indications that weekly publications may be the best vehicle for cable data.

A survey by the Associated Press Managing Editors Association's P.M. Newspapers Committee found that half of the 18 responding dailies had increased television coverage in the past year, often by adding cable listings.

All in all, the reality of multiple cable systems—some with as many as 72 channels, and some on the air around-the-clock—is producing a migraine headache for newspapers.

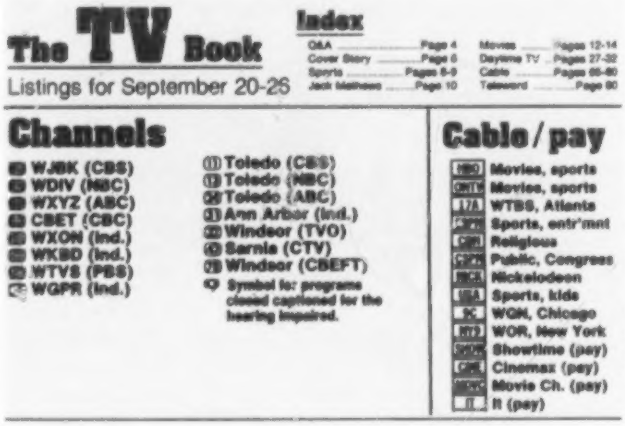
Two tales of one city. For example, in suburbs of Cleveland, seven different cable companies are serving separate sections, and an eighth is wiring its franchise area.

Each system has multiple channels, and none of the programming in any system coincides with similarly numbered channels in another system. Separate listings could be made for each channel in each system.

But the city of Cleveland itself is without cable service.

Attempting to juggle listings to keep readers throughout the metropolitan area happy has been, to put it mildly, a challenge.

George Vukmanovich of the Cleveland Press TV and radio department says the Press now publishes in its weekly zoned sections two pages of cable TV listings tailored for particular suburban areas. Zoning the listings is a tactic that is being employed by other papers, including the Columbus (Ohio) Dispatch and the Lerner Newspapers in the Chicago area.



The TV Book
Listings for September 20-26

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Q&A .... Page 4
Cover Story .... Page 6
Sports .... Pages 8-9
Jack Mathews .... Page 10
Movies .... Pages 12-14
Daytime TV .... Pages 27-32
Cable .... Pages 65-80
Teleword .... Page 80

Channels
WJBK (CBS)
WDIV (NBC)
WXYZ (ABC)
CBET (CBC)
WXON (Ind.)
WKBD (Ind.)
WTVS (PBS)
WGPR (Ind.)
Toledo (CBS)
Toledo (NBC)
Toledo (ABC)
Ann Arbor (Ind.)
Windsor (TVO)
Sarnia (CTV)
Windsor (CBEFT)
Symbol for programs closed captioned for the hearing impaired.

Cable / pay
Movies, sports
Movies, sports
WTBS, Atlanta
Sports, entr'mnt
Religious
Public, Congress
Nickelodeon
Sports, kids
WGN, Chicago
WOR, New York
Showtime (pay)
Cinemax (pay)
Movie Ch. (pay)
It (pay)

Detroit Free Press

Proliferating cable channels are causing migraine headaches for editors of weekly TV supplements.

Vukmanovich says that although the listings in the Wednesday zoned editions leave no room for feature material, readers seem to like the comprehensive, easy-to-read format.

For the Press's city readers, there are the standard-type, daily listings of old, covering only Cleveland's broadcast stations.

The Plain Dealer, meanwhile, publishes an expanded, chock-full-'o-cable, weekly TV supplement, and includes cable listings on its daily TV page as well.

The paper was stung by "terrible complaints" from city residents who "hate the idea" that their suburban neighbors have the cable service the city lacks, says Entertainment Editor Emerson Batdorff.

Format possibilities. The Plain Dealer and many other papers have found that one of the biggest problems is developing a format that works—and pleases readers. In fact, the format possibilities are almost as numerous as the channels in a fully rigged cable system. A newspaper can have:

- A grid system, with times listed down one side of a page and channels listed across the top.
- A grid system with times listed across the top and channels listed down the side of the page, leaving room for more channels.
- A rolling log (TV Guide-type format) which lists the time and the name of the programs on each channel.
- A rolling log that also gives a brief description of each program.
- A news column carrying separate listings for each channel, with a description of all the programs in certain time slots.
- Brief highlights of major programs.
- Combinations of the above.

Some newspapers report only prime-time cable programs. Some carry cable programming in the daily papers, and only conventional programming in their weekly TV books; some do the reverse. Others break out complete listings for weekends, when most people are at home.

Movie synopses are another problem. Should a newspaper separate network movies from movies on cable and "pay-cable"—enhanced services like Home Box Office and The Movie Channel—or just lump them all together? And how much of a synopsis is appropriate for uncut, R-rated movies?

All of these options have been or are being tried, but the surveys indicate that no consensus has developed; nor is there a definable trend.

There are, however, some success stories. One belongs to the Detroit Free Press.

Its revised, weekly TV book appeared last June. Sized at 5 1/4-by-7 3/8 inches, with a slick color cover, the book typically runs to 80 pages—about 50 pages devoted to listings for 15 conventional broadcast channels, 15 pages to listings for 14 pay-cable and cable channels, and the rest to feature articles and advertising.

Noreen Rooney, TV listings editor for the Free Press, says readers have been pleased with the new format.

Advertising Supplements Manager John Beard says the new book is a very successful advertising vehicle, too.

Competition. Advertising is one thing newspapers obviously want to protect. Readers are another. And there are threats to newspapers' TV supplements and daily TV listings on both fronts.

Most newspapers surveyed report their own weekly TV books traditionally generate a fair amount of advertising dollars, and they have seen little change in ad volume so far from adding cable listings. Others are taking the opportunity of changing their formats to upgrade magazine covers, use more color and otherwise enhance the advertising potential of the book.

Actual impact on ad revenue, however, appears to be an unanswered question so far.

Newspapers' most obvious competitor in the TV-listings arena, of course, is that ubiquitous supermarket-checkout sentry, TV Guide.

The magazine, with a circulation of more than 18 million, publishes 110 regional editions covering the entire United States. Of those, 97 currently carry some cable listings.

Pat O'Connor, associate editor for cable, says cable channels become candidates for inclusion in the magazine when cable penetration reaches a certain level. (TV Guide declined to reveal the threshold.)

Newspapers are bumping into a different breed of competitor in a number of markets—the listings published by cable companies themselves.

Many of them are slickly done, and they may contain advertising, but their frequency thus far has been monthly. Newspaper people point out that the weekly TV insert is much less likely to be lost or damaged over its useful life than a monthly.

And still other competitors loom on the cable horizon.

"If a newspaper makes the decision not to include cable listings, where are people going to get information about what is on their cable TV? An entreprenurial publisher is going to come into a community on his own and supply complete TV listings," warns David Hendin, vice president of newspaper operations for United Media, a wholly owned subsidiary of E.W. Scripps Co. and parent company of TV DATA.

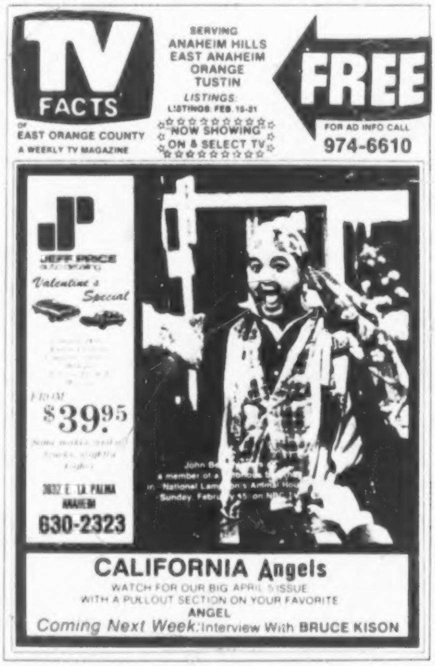
TV DATA, with 1,500 daily and non-daily newspaper clients, and TV Compulog Services Inc., which serves about 850 newspapers, are two major suppliers of television listing information.

Farmingdale, N.Y.-based TV Compulog also offers franchises for entrepreneurial publishers who wish to publish local editions of its weekly TV Facts booklet.

Distributed free in shops, banks and other businesses, TV Facts contains 24 to 80 pages of television (including cable) listings, feature material, community information and local display ads. It currently is published in some 300 local editions in 36 states and three Canadian provinces.

Nick Gimpel, vice president of TV Facts, says the booklets are tailored for small geographical areas and can offer ads at lower rates than newspapers.

Among newspapers facing competition from TV Facts is The Journal Messenger in Manassas, Va. But Advertising Manager Dennis Bradshaw says it has not affected advertising in his 10,801-circulation daily, which publishes a weekly TV book. "We're not worried," he says.



TV FACTS
OF EAST ORANGE COUNTY
A WEEKLY TV MAGAZINE

SERVING
ANAHEIM HILLS
EAST ANAHEIM
ORANGE
TUSTIN
LISTINGS:
LISTINGS FEB 15-21
"NOW SHOWING"
ON & SELECT TV

FREE
FOR AD INFO CALL
974-6610

JEFF PRICE
Valentine's Special
FROM
$39.95
3832 E. LA PALMA
ANAHEIM
630-2323

CALIFORNIA Angels
WATCH FOR OUR BIG APRIL 5 ISSUE
WITH A PULLOUT SECTION ON YOUR FAVORITE
ANGEL
Coming Next Week: Interview With BRUCE KISON

TV Compulog Services Inc

Free, weekly TV listings by entrepreneurial publishers go head-to-head with newspaper TV books in some markets.

There has been such "an absolutely huge, growing demand among newspapers" for cable listings in recent months that Hendin of TV DATA says his company has not been able to add computers fast enough to keep up. As a result of the demand, a few customers found delays or other problems in getting service.

TV DATA and Compulog both transmit information for each newspaper market via the mail in camera-ready form or over high-speed transmission wires.

TV DATA also transmits directly into newspaper computers via an Atlas 2400, a micro-processor that can accept electrical information transferred over telephone lines from TV DATA's Glen Falls, N.Y., headquarters. About 175 of the devices have been installed at newspapers. Compulog recently began offering a similar service.

In addition, TV DATA supplies electronic TV listings, suitable for "scrolling" on a channel designated for listing programs, on—what else?—cable TV. ☐

Baltimore p.m. implements layoffs, earlier street edition

The News American of Baltimore last month took two steps designed to gain financial stability.

First, it laid off 43 employees, 26 of them from the news side. Charles L. Coyle, company relations manager, said the layoffs were part of a "reorganization program."

Later in the month, The News American introduced a "commuter" edition that hit the streets in selected areas before 7 a.m.—an hour earlier than the previous early edition. But Coyle stressed that "we're still an evening paper."

According to the Audit Bureau of Circulations, circulations of the three Baltimore dailies for the period ended March 31, 1981, were 142,119 for the News American, 178,515 for the morning Baltimore Sun and 169,944 for The Evening Sun. ☐

Recent acquisitions

Thomson Newspapers Inc., Des Plaines, Ill., has acquired The Kokomo (Ind.) Tribune, daily circulation 29,166.

Twin City Publishing Co., Ulrichsville, Ohio, has acquired The Evening Chronicle of Ulrichsville, daily circulation 4,121. ☐

INPA board to name Linsmier successor

The Board of Directors of the International Newspaper Promotion Association at its Nov. 6 meeting is expected to name a new executive director to succeed Edward A. Linsmier who died Sept. 26 of a heart attack.

Linsmier, 53, was INPA executive director since 1972. Prior to that he had been promotion manager of The Charlotte (N.C.) Observer and The Charlotte News for 10 years. Before that he had worked four years as assistant promotion director for The Houston Post.

While in daily newspapering, Linsmier served as a director of INPA, editor of its advertising newsletter and president of its Southern Region. In 1972, he received the organization's Silver Shovel Award, its highest honor.

With headquarters at The Newspaper Center in Reston, Va., INPA serves promotion, public relations and marketing executives of newspapers in North America and elsewhere in the world. □

Two research firms press ahead with plans for readership studies

Despite unresolved controversies from the newspaper business' first major syndicated readership study, two companies are soliciting clients in separate plans to conduct additional, standardized, readership studies in top U.S. markets.

At its meeting Nov. 2-4 in Chicago, the Newspaper Research Council plans to release an evaluation of the first readership study, done in 1979-80 by Three Sigma Research [**presstime,** Oct. 1980, p. 31].

The council will make suggestions for future studies, and a report based on its evaluation will be made at the International Newspaper Advertising and Marketing Executives' January sales conference.

The Three Sigma study was received with less than unanimous praise, with some newspapers questioning the sampling and selection of respondents. Also, some reports were issued later than expected.

Willard Simmons, president of Three Sigma, said that in the next study all interviews will be conducted by his own telephone-sampling staff. The company also has an agreement with Telmar, a computer firm, to tabulate the results.

Simmons—who said in late October he had no indication how many newspapers, advertisers and agencies will sign up for the next study—wants to begin the surveys in January 1982, with results to be reported in late 1982. That would mean only a two-year lag between the two studies.

Meanwhile, Harold Israel, president of Scarborough Research Corp. of New York City, said six newspapers had indicated interest in participating in a Scarborough readership study.

Scarborough proposes to conduct interviews in 1982 and report its results in 1983. Scarborough plans to release computerized data as well as written reports.

So far, there are no clear indications of how much ad agencies are relying on readership data from the Three Sigma study in determining ad buys, said B. Stuart Tolley, vice president and director of research for the Newspaper Advertising Bureau.

Simmons said 18 advertising agencies have signed contracts to receive reports from the first study. It may be another year before any usage pattern is clear.

Observers estimated that participation in a future study, whether that of Three Sigma or Scarborough, could cost $6,000-$10,000 for a small-circulation newspaper and $25,000-$30,000 for a large one. □

Press associations: changes in command

Associated Press Managing Editors Association, at its annual meeting Oct. 20-23 in Toronto, elected the following officers:

- President—Robert Haiman, St. Petersburg (Fla.) Times and Evening Independent
- Vice President—Joseph M. Ungaro, Westchester Rockland (N.Y.) Newspapers Inc.
- Secretary-Treasurer—James F. Daubel, The News-Messenger, Fremont, Ohio
- Chairman of Continuing Studies—Ted Natt, Longview (Wash.) Daily News
- Vice Chairman of Continuing Studies—Michael Davies, Kansas City (Mo.) Star and Times

Institute of Newspaper Controllers and Finance Officers, at its annual meeting Oct. 18-21 in Philadelphia, elected the following officers:

- President—John H. O'Hearn, St. Petersburg (Fla.) Times and Evening Independent
- First Vice President—Jay A. Carlson, Newspaper Agency Corp., Salt Lake City
- Second Vice President—George D. Hutchinson, Vancouver (British Columbia) Province and Sun
- Secretary—William A. Herman III, Morris Communications Corp., Augusta, Ga.
- Treasurer—Dominic A. Welch, The Salt Lake Tribune

National Newspaper Association, at its annual meeting Sept. 30-Oct. 3 in Boston, elected the following officers:

- President—George J. Measer, Bee Publications Inc., Williamsville, N.Y.
- Vice President—John F. McMaster, The Public Spirit, Ayer, Mass.
- Treasurer—James H. Roberts, Cornbelt Press Inc., Fairbury, Ill.

United Press International, at its annual Edicon meeting Oct. 4-6, elected Lee J. Guittar of The Denver Post as chairman of the UPI Newspaper Advisory Board. □

Canada may act in 1982 on press proposals

The chairman of the Royal Commission on Newspapers told a Canadian managing editors conference in Toronto Oct. 19 that he expects federal action on the commission's recommendations to be announced at the opening of Parliament in February [**presstime,** Oct. 1981, p. 51].

One commission recommendation already has been rejected by its intended beneficiary. The Canadian Press has turned down a proposed government grant for expanded news coverage by the wire service. □

NNA basks in treasury surplus; Measer seeks to spread gospel

"As different as night and day." That was the comparison drawn by one observer between the 1980 convention of the National Newspaper Association and this year's convention Sept. 30-Oct. 3 in Boston.

Last year, NNA officers informed the membership of severe financial difficulties being experienced by the association [**presstime,** Nov. 1980, p. 41]. NNA, as of Aug. 31, 1980, was $45,213 in the red, they said.

For the comparable period this year, NNA Treasurer John F. McMaster reported, the association has an operating surplus of $214,3[illegible]0.

If the association ends this year with a $75,000 surplus, as he projects, then factoring in last year's end-of-the-year deficit of more than $23,000, NNA would have achieved about a $100,000 turn-around in one year.

The fiscal flip-flop was achieved, according to McMaster, because NNA:

- Received more dues income than had been projected. As of the convention, the total was $322,000, $72,000 above the expected amount.
- Received more than $35,000 in contributions from state press associations.
- Earned about $17,000 in interest income, thanks to "shrewd investing."
- Realized $4,000 more from its annual newspaper contest than in 1980.
- Began charging the National Newspaper Foundation for clerical services.
- Reduced its staff by attrition, cut the publication frequency of Publishers' Auxiliary newspaper from 44 times a year to 26, and did not hire outside legislative help.

"The worst possible this year is twice as good as where we were last year, and possibly can be much better than that," said McMaster, publisher of The Public Spirit in Ayer, Mass. As an example, he reported NNA's accounts payable for 1979 were $180,000; for 1980, $104,000; but as of the Boston convention, only $14,000.

NNA Executive Vice President Mel Street said the association will continue its "austerity budget" and will not institute a dues increase for 1982. There was a 10-percent increase this year.

For the financial comeback, incoming NNA President George J. Measer credited Street, who joined the staff a year ago; outgoing NNA President Robert E. Bailey, editor and publisher of the Buhl (Idaho) Herald; and "the confidence and the action of the entire (NNA) Board."

Measer, president and publisher of Bee Publications Inc. of Williamsville, N.Y., a group of seven weeklies, has established two themes for his one-year term.

He said he will aim to make 1982 the "year of awareness" about the services NNA renders its members.

Measer (left), Bailey are all smiles in Boston.

Second, he said he will seek to have NNA become known as "the newspapers' voice in the nation's capital" by strengthening the association's "contact team" concept—whereby the responsibility for contacting key members of Congress on legislative issues is delegated to member newspapers. ☐

Compugraphic acquired by West Germany's Agfa

Agfa-Gevaert N.V., the world's second-largest photography company (and a subsidiary of West German conglomerate Bayer AG), agreed in late October to acquire 51 percent of Compugraphic Corp., the leading manufacturer of photocomposition equipment.

Some industry observers likened the $60-million deal to the acquisition last August of Atex Inc. by Eastman Kodak Co. [**presstime,** Sept. 1981, p. 30]. ☐

New members

The Titusville Herald

Titusville, Pa. (circulation 5,080). James P. Spence, general manager.

The Kent Good Times Dispatch

Kent, Conn. (circulation 1,000). Edward Rapp, publisher.

Presstime Statement of Ownership

STATEMENT OF OWNERSHIP, MANAGEMENT AND CIRCULATION (Act of August 12, 1970); Section 3685, Title 39, United States Code).

1. Title of Publication: **presstime**
   A. Publication No.: 01943243
2. Date of Filing: Sept. 15, 1981
3. Frequency of Issue: monthly
   A. No. of Issues Published Annually: 12
   B. Annual Subscription Price: members $50; non-members $100
4. Address of Known Office of Publication: American Newspaper Publishers Association, 11600 Sunrise Valley Dr., Reston, Va. 22091
5. General Business Offices of the Publisher: American Newspaper Publishers Association, 11600 Sunrise Valley Dr., Reston, Va. 22091
6. Names and Address of Publisher, Editor and Managing Editor:
   Publisher: Jerry W. Friedheim, ANPA, 11600 Sunrise Valley Dr., Reston, Va. 22091
   Editor: James E. Donahue, ANPA, 11600 Sunrise Valley Dr., Reston, Va. 22091
   Managing Editor: Maurice Fliess, ANPA, 11600 Sunrise Valley Dr., Reston, Va. 22091
7. Owner: American Newspaper Publishers Association Inc., 11600 Sunrise Valley Dr., Reston, Va. 22091
8. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages or Other Securities: None
9. Not applicable
10. Extent and Nature of Circulation:

	Average No. Copies Each Issue During Preceding 12 Months	Actual No. Copies of Single Issue Published Nearest to Filing Date
A. Total No. Copies (Net Press Run)	9,300	9,300
B. Paid Circulation		
1. Sales through dealers and carriers, street vendors and counter sales	0	0
2. Mail subscription	7,045	7,013
C. Total paid circulation	7,045	7,013
D. Free distribution by mail, carrier or other means. Samples, complimentary and other free copies	1,287	1,371
E. Total distribution	8,332	8,384
F. Copies not distributed		
1. Office use, left over, unaccounted, spoiled after printing	968	916
2. Return from news agents	0	0
G. Total	9,300	9,300

I certify that the statements made by me above are correct and complete. James E. Donahue, Editor

speeches

Donald B. Towles

Raymond Mack

Bruce W. Sanford

Mark S. Fowler

Single copies of the following speeches are available without charge from the ANPA Public Affairs Department at The Newspaper Center:

- **Fighting For New Sources of Revenue.** Lloyd G. Schermer, ANPA director, and president and chief executive officer, Lee Enterprises Inc., Davenport, Iowa. Management and Marketing Symposium of the International Federation of Newspaper Publishers, Geneva, Switzerland, Oct. 23.
- **No, Chicken Little, the Sky is Not Falling.** Donald B. Towles, vice president and director for public affairs, The Courier-Journal and The Louisville (Ky.) Times, and president, International Newspaper Promotion Association. INPA European Conference, Seville, Spain, Sept. 17.
- **Print Media and their Relationship to the Black Community.** Dexter D. Eure Sr., director, community relations and assistant promotion manager, The Boston Globe. The Communications Brain Trust Workshop, Congressional Black Caucus annual legislative weekend, Washington, D.C., Sept. 25.
- **Those Swinging Single Copy Sales—How They Swing!** Raymond Mack, executive consultant, Scripps-Howard Newspapers, Washington, D.C. Scripps Howard Newspapers Business and Circulation Managers meeting, Hollywood, Fla., July 10.
- **Energy and the Media.** Victor Riesel, syndicated columnist, New York City. National Newspaper Association annual convention, Boston, Oct. 3.
- **Libel, Lawsuits, Anonymous Sources and Trouble on Capitol Hill: The American Press Enters the '80s.** Bruce W. Sanford, attorney, Baker & Hostetler, Washington, D.C., and counsel, Society of Professional Journalists, Sigma Delta Chi. City Club, Portland, Ore., Sept. 18.
- **The Public's Interest.** Mark S. Fowler, chairman, Federal Communications Commission. International Radio Television Society meeting, New York City, Sept. 23.
- **The Challenge of Satellite Business Communications and the Information Era.** Emanuel Fthenakis, chairman, American Satellite Co., Rockville, Md. Satellite Communications Users Annual Conference, Denver, Aug. 19.

• • •

From the ANPA Electronic Publishing Seminar, Dallas, Sept. 15-17:

- **Future Scenarios for Teletext and Videotex.** Gerald Haslam, director, videotex services, Southam inc., Toronto.
- **The Rise and Fall of the Newspaper Boy.** J. Robert Harcharik, president, Tymnet Inc., Cupertino, Calif.
- **Strategic Options for Newspapers.** Christine D. Urban, president, Urban and Associates, Dedham, Mass.

November

ANPA Newspaper Safety and Health Symposium
Sheraton Inn, Atlanta Airport, Nov. 4-6

ANPA/ASNE/APME Leadership in the Newsroom Workshop
Radisson Hotel, Chicago, Nov. 9-11

ANPA Estate Planning Seminar
Hotel Washington, Washington, D.C., Nov. 10-11

ANPA Executive Committee meeting
Hyatt Regency, Dearborn, Mich., Nov. 11

ANPA Production Management Conference Arrangements Committee meeting
Newark, N.J., Nov. 12

ANPA/Canadian Pulp and Paper Association Technical Section Joint Standing Committee Newsprint and the Pressroom Seminar
Hyatt Regency Chicago, Nov. 12-13

ANPA/Pacific Northwest Newspaper Association/Western Newspaper Industrial Relations Bureau Labor Relations Seminar
Kona Kai Club, San Diego, Nov. 16-18

ANPA/International Circulation Managers Association Promotion Managers Workshop
Radisson Hotel, Chicago, Nov. 16-18

ANPA/RI Management Introduction to New Technology Seminar
ANPA Research Institute, Easton, Pa., Nov. 16-20

December

ANPA Board of Directors meeting
Waldorf-Astoria Hotel, New York City, Dec. 2-3

ANPA Foundation Board of Trustees meeting
Waldorf-Astoria Hotel, New York City, Dec. 3

ANPA News Research Committee meeting
L'Enfant Plaza Hotel, Washington, D.C., Dec. 4

ANPA/American Bar Association Task Force meeting
Marriott O'Hare Hotel, Chicago, Dec. 4

ANPA/RI Basic Offset Press and Plate Seminar
ANPA Research Institute, Easton, Pa., Dec. 7-11

January

ANPA Labor and Personnel Relations Committee meeting
Sheraton Harbor Island Hotel, San Diego, Jan. 10

ANPA Labor and Personnel Relations Conference
Sheraton Harbor Island Hotel, San Diego, Jan. 11-13

ANPA/RI Basic Offset Press and Plate Seminar
ANPA Research Institute, Easton, Pa., Jan. 11-15

ANPA Training Committee meeting
Royal Orleans Hotel, New Orleans, Jan. 15

ANPA Board of Directors meeting
Dorado Beach Hotel, Dorado Beach, Puerto Rico, Jan. 18-21

ANPA Electronic Publishing Seminar II
Shoreham Hotel, Washington, D.C., Jan. 26-28

ANPA/RI Direct Screen Color Separation Seminar
ANPA Research Institute, Easton, Pa., Jan. 25-29

Congressional Information
SRI Acquisitions Service Inc.
4520 East-West Hwy., Suite 800
Washington, DC
20014